

DR. THOMAS WALKER
(1715-1794)

First Explorer of Kentucky (1750). Discovered and named
Cumberland Mountains, Gap and River.

HISTORY
of
KENTUCKY

VOLUME I

BEFORE THE LOUISIANA PURCHASE
IN 1803

By TEMPLE BODLEY

THE S. J. CLARKE PUBLISHING COMPANY
CHICAGO - LOUISVILLE

1928

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PREFACE

This volume will differ much from previous ones treating of early Kentucky history, not only in what it will contain, but in what it will omit. It is not written to give details, however interesting, of early explorations, or settlements, or pioneer life, or personal exploits, or minor encounters with Indians, or many other subjects of local or personal interest; for these have been so often described that further treatment of them would be little more than repetition. Instead, an attempt will be made to present the main current of the state's early history and explain those conditions and events which gave Kentucky its unique significance in the nation's history. Of those conditions economic ones will be found of great importance and will receive considerable attention.

Amongst the fundamentals of Kentucky's history during the Revolution were three very different but closely related and most determined conflicts—one diplomatic, another military, and the third political. Each involved the ownership of Kentucky and of the great region between the Alleghenies and the Mississippi; and the outcome of each was in the last degree doubtful. With our military conflict readers of western American history are more or less familiar. Our diplomatic struggle for the trans-Allegheny region against Great Britain, Spain and France is much less generally understood, while the tremendously important contention for that region in the Continental Congress, between the states north of the Potomac and those south of it, seems never to have been adequately explained. Which one of these three great conflicts had most important bearing on Kentucky's history it would be difficult to say, for all were vital. Had the result of any one of them been other than it was, the state could hardly be now a part of the United States.

The publishers first asked me to prepare a complete history of Kentucky, but this I declined to do, saying my studies had been mainly confined to the early period before the Louisiana Purchase

in 1803. It was then arranged that I should write this one volume, have full discretion as to its contents, but not be connected with any other they might issue.

In every stage and detail of its preparation I have been indebted for invaluable aid from my assistant, Mr. Alvin L. Prichard. Indeed, the book could hardly have been written without his keen interest and intelligent suggestions and services in its make-up—historical and literary as well as physical. He has relieved me entirely of proof-reading and the work of preparing a table of contents, bibliography and index-work which poor sight would have prevented my undertaking. I cannot sufficiently express my indebtedness to him.

To my friend, Mr. R. C. Ballard Thruston, president of the Filson Club, I wish to acknowledge my obligation for his aid in finding very important source materials and otherwise helping in my work. I desire also to thank The Houghton Mifflin Company for their willing consent to my using several extracts from my *George Rogers Clark: His Life and Public Services*, which they recently published.

Louisville, Ky.

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INTRODUCTION

Kentucky's chief title to distinction in our nation's history was won during the period before the Louisiana Purchase in 1803. Her people have taken notable parts in the later history of the United States, but none comparable in national significance to the one played during and for a score of years after the American Revolution. To them, and to their mother state, Virginia, this nation owes possession of its first great west—the Revolutionary West, by which is meant the vast and now populous region extending from the Alleghenies to the Mississippi, and from the Great Lakes to Florida.

The Louisiana Purchase extended the boundaries of the United States to the Gulf of Mexico and from the Mississippi to the Rocky Mountains, and made possible and almost inevitable our later expansion to Mexico and the Pacific; but the Louisiana Purchase could never have been made had not the region east of the Mississippi been won for us during the Revolution and held during the twenty critical years following. Every state west of the Mississippi, from Minnesota and Texas to Oregon and California, must therefore trace its origin as a part of the United States to the winning of our first Great West. Upon that first stride to territorial greatness hung the nation's present possession of seven-eighths of the territory and nearly seventy per cent of the population of the United States.

It has been well said that "next to the planting of English civilization on the Atlantic slopes in the first part of the seventeenth century, the most impressive event in our history was the planting of American civilization in the Great West in the second part of the eighteenth century."¹ and in that planting Virginia's people in Kentucky played pre-eminently the leading part.

¹ B. A. Hinsdale, in *The Dial*, 1900.

Far more essentially than historians generally have seemed to realize, the Revolutionary War west of the Alleghenies aided in winning American independence. By keeping the British and Indians engaged there, it shielded the inner western frontiers of all the Atlantic states, from Pennsylvania to Georgia. It thus enabled those frontiers to furnish Washington with many of his most valuable men and also with vitally necessary supplies, instead of drawing both men and supplies from him for the defense of those frontiers. Furthermore, the western war was enormously expensive to Great Britain, and aided mightily in bringing about her financial exhaustion, which was what really forced her to grant American independence. Moreover, although the fact has been little appreciated, our winning of the Revolutionary West prevented the growth there of a great British empire, to overawe and crush our infant nation, and thus made American independence substantial and permanent.

The "Northwest Territory," won for us in a wilderness by a handful of intrepid men, little heeded by their compatriots east of the Alleghenies, gave the United States its first national domain to support the public credit.

During the critical period preceding the adoption of the Federal Constitution, the paramount need of the states and confederation was financial restoration; and for that two things were essential—*first*, a present fund, such as the western lands gave, to support public credit, and *secondly*, the regulation of commerce between the states,—and each required administration by an efficient federal government.

The need for federal control of the national domain was so plain, however, and so generally understood at the time, that it was little discussed. No one questioned that the great land fund could be better handled by a central government than by thirteen separate and jealous states; or that any attempt to divide the lands amongst them, or to have the lands managed for them by trustees, would lead to interminable wrangling.

Federal regulation of commerce between the states, on the other hand, involved the exercise of federal powers in every state, and threatened so much interference with state sovereignty that it met most vigorous opposition and became the subject of universal and heated debate. The far greater prominence thus given

to commercial regulation in the debates on the adoption of the Federal Constitution has caused most historians to overlook the importance of the western national domain in bringing the states together under the Constitution.

Because Kentucky played a leading part in the struggle for our first Great West, its history must be well worth every American's attention; for that struggle essentially aided in winning American independence; it made that independence *real* by preventing the growth of a great British power west of the Alleghenies; it furnished the thirteen states their only available fund to uphold the public credit; it gave them a powerful inducement to enter into a real Union under the Federal Constitution; and lastly, it gave the infant nation opportunity for later expansion.

Yet, strange though it seems, for over half a century after the western country was won, the great diplomatic, political and military efforts to win it, and the tremendous national importance of the winning, were little noticed by most writers of Revolutionary history, and by many not at all! Kentucky's great part in the conflict has often been lauded by her historians, but it has never been more than very partially investigated or explained. This seems hardly more surprising because of the historic importance of the subject, than because of its interesting nature. Not only was the western country of vital importance to the nation—the main object of eight years of diplomacy, and of the most bitter and dangerous political controversy in American history,—it was won in a wilderness by daring settlement and warfare unique in interest for the variety and picturesqueness of actors, for dramatic situations and thrilling exploits, for patriotic pluck, and for achievements amazingly out of proportion to the forces engaged.

In time, however, the history of that early struggle for the Revolutionary West must surely receive the attention its importance deserves. More and more, as the great and growing influence of the American Revolution in the world's history becomes realized, the significance of its western phase will be appreciated. Ours is the world's first great experiment and exemplar of free government, and so long as free government endures amongst the nations of the earth, its birth-time during the American Revolution will rightly be regarded as one of the greatest

epochs in the history of mankind. The causes of the Revolution, its course, and its world influence will continue to be increasingly the study of master minds. Long after the events and men of our War of 1812, of the Mexican war, of the Civil war, and of our wars yet to come—involving vastly great numbers but less far-reaching results—have dwindled in the perspective of receding time and are forgot, the birth of free government in the American Revolution will stand out like a beacon light in the progress of mankind. Mere national convulsions for freedom, however important for the nation involved,—mere emancipations of an oppressed part of a nation, like the serfs of Russia, or the negroes of this country—may be barely mentioned, or not even mentioned at all, by the future world historian; for he will consider them as events of little more than local importance in the constantly widening current of the world's history. The American Revolution, however—not merely because it gave America freedom, but because it blazed the way for freedom everywhere—will be the study of historians everywhere. Washington, as its very soul and mainstay, will more and more be esteemed as incomparably the mightiest personal influence for freedom—the greatest emancipator—in the world's profane history; while, more and more, the winning of our first "Great West" will be regarded as no less fundamental in the upbuilding of the greatness and world-influence of this nation than our independence, union, and Federal Constitution.

For over half a century after the Revolution, nearly all widely-read general American histories were written by eastern, and particularly northeastern men; for it was only in their section that the printing press ran to multiply, circulate, and preserve a great variety of contemporary data, and make them available for writers there to weave into history, romance, and poetry. New England's dominant commercial, industrial and marine interests and relatively compact population very early made newspapers an obvious need, their distribution comparatively inexpensive, and their publication profitable; and the same press which one week printed a newspaper would perhaps the next week issue a pamphlet or book.²

² "It seems to have been a habit to combine with the country news- of the New England country clergy paper to produce a history; the par

All of us, indeed, are prone to look upon the universe with ourselves as its center, and to forget the diminishing effect of perspective, to overestimate near events and men, and underestimate distant ones really far more important. Naturally enough, northeastern men wrote American history from their own northeastern standpoint, and not only magnified the relative importance of historic events and characters of their own section, but overlooked or minimized distant ones of the south or west.

The south Atlantic colonies were far less fortunate than the northern ones with respect to their historic materials. Life in the south was almost entirely rural—the towns usually small and comparatively unimportant economically, politically and socially. The people of the planter class, which was the intelligent and governing one, generally lived far apart on large plantations, and depended for information much more upon imported books and conversation than their newspaper-reading brethren of the north. The result was that in the southern colonies comparatively few historic papers were published and made accessible for writers of history. They were found, if at all, only by laborious search in ill-kept public offices, or hidden away in family secretaries and dusty garrets. This in large measure remains true even now.

If, however, printed source materials were sadly lacking for early writers of the history of the south Atlantic states, there were almost none for those who attempted to write of western history. Local and family traditions, fireside yarns, and gross praise or disparagement of noted actors in the western drama, made most of the stuff of western history as written by the first generation or two of western authors. Since their time, although very many early letters, public documents, and other authentic source materials have been gathered by diligent investigators and made more or less accessible, few recent historians

son furnished scissors, paste, and circumambient rhetoric, and produced a manuscript chiefly out of extracts from his predecessors; the printer set it up on the off-days when the week's paper was printed and copy for the next had not ap-

peared. This process, not unknown in later and wiser generations, adds nothing to American historiography." ("American Schools of Historical Writers," by Albert Bushnell Hart, *Harper's Encyclopedia of United States History*, I: p. 14.)

of Kentucky have taken pains to investigate them; but most have been content to accept and repeat the unreliable assertions of the early writers. The result has been an amazing distortion of the truth about the events and men of the state's early history.

The Northwest Territory was won for us, almost unaided, by Virginia and her Kentucky people; yet its history is often treated in printed works as if it began with the "Ordinance of 1787" for the government of the territory. That ordinance has been greatly extolled; books have been published about the men who framed it; other books have set forth the far-reaching benefits derived by the nation from the public lands of the territory in fostering education, founding great universities, building railroads and canals, and in founding five great states of the American Union. The promotion of the first American settlement in the territory by certain land speculators, who induced the expiring Continental Congress to pass the ordinance, the authorship of the anti-slavery and other provisions of the ordinance, the administration of successive governors of the territory, and many other features of its history have been elaborately dwelt upon; but the earlier conditions which made the winning of the territory itself so difficult and long doubtful, and the services of the men who won it and made the lauded ordinance possible, have usually been little noticed, if noticed at all.

PART ONE

BACKGROUND OF KENTUCKY HISTORY

CHAPTER I

RIVAL CLAIMS TO MISSISSIPPI VALLEY

Kentucky was born into the American Revolution; its first settlement was coeval with the first battle of the war for Independence. Long before a white settler ever entered "the Dark and Bloody Ground," the whole Mississippi Valley was the subject of a mighty conflict between the three great European powers, Spain, France and Great Britain. Their contentions for this rich prize led them into long and bloody wars and into diplomatic intrigues which involved the people of the United States, and especially the people of Kentucky, in a maze of troubles, during the Revolution and for a generation afterward.

Each nation asserted priority for its own discoveries in North America, and based on them extravagant territorial claims. During the American Revolution, the charter claims of the four southern states to western lands extending to the Mississippi, and particularly Virginia's claim to West Virginia, Kentucky, and the region north of the Ohio River, became the subject of a nine years' bitter struggle in the Continental Congress. The conflict was mainly waged over Virginia's claim to West Virginia and Kentucky, and it almost wrecked the infant American union.

Virginia claimed that her charter of 1609 gave her bounds originally extending to the Pacific Ocean, although they were afterward restricted by treaty with France in 1763 to the center line of the Mississippi. The charter gave her a vast region "west and northwest" of a base line extending along the Atlantic coast

two hundred miles northwardly and a like distance southwardly from Old Point Comfort at the entrance to Chesapeake Bay. The true extent of this grant early became a subject of dispute. During the Revolution, northern delegates in Congress asserted that the grant was made by King James I in ignorance of the great width of North America, and therefore Virginia's charter territory should have only a "reasonable" western extent. This they conveniently fixed at the crestline of the Alleghenies. They contended that Virginia never owned any lands west of those mountains and that West Virginia and Kentucky were never part of the Old Dominion.

Because this alleged ignorance of the parties concerned in the granting of the Virginia charter became tremendously important during the Revolution, and because it especially concerned Kentucky, it is well to inquire how far explorers had penetrated westwardly of Virginia's Atlantic coastline before 1609, when her bounds were fixed by her charter. It is also important to ascertain what was known of these explorations by the persons in England who were concerned in the grant of her charter. This is absolutely necessary for understanding the great conflict which arose in the Continental Congress over the question whether Kentucky was part of Virginia, or could rightly be claimed to belong to all the thirteen states.

As all know, Spain claimed all North America by reason of the discoveries of Columbus, and her claim was upheld by the papal bull of Alexander VI. In the sixteenth century, and long before either the British or French had made a single settlement in North America, Spain's subjects had occupied and governed Mexico; Ponce de Leon had twice entered Florida; St. Augustine had been founded there; De Soto, with a large and well equipped force, had journeyed overland from Florida, had penetrated to the Mississippi River, and, it is said, went up that river "nearly to the Missouri." If so he was nearly eight hundred miles west of the longitude of the Virginia coast at Point Comfort,¹ about nine

¹ "His explorations began at Tampa Bay July 15 (1539). They covered a large area and the route can be determined only approximately. It is certain that he passed through

northern Florida, Georgia, probably South Carolina and Tennessee and perhaps North Carolina before descending the Alabama River. In October, 1540, he had a battle near

hundred miles northward of the Gulf of Mexico, and probably within the territory afterwards granted to Virginia. About the same time, starting from Culican, a Mexican town some eighteen hundred miles west of the longitude of the Virginia coast,² the worthy Spanish missionary, Coronado, with numerous attendants, explored to the northwest as far as the head of the Gulf of California, where he was nearly two thousand miles due west of the Atlantic coast of South Carolina. Thence he turned northeastwardly through Arizona into New Mexico and, some claim, entered Colorado.³ If so, he was actually within the bounds of Virginia as fixed by her charter forty-seven years later, and some fifteen hundred miles west of its Atlantic coast line. Before the first British vessel entered Chesapeake Bay, on its way up James River to settle Jamestown, the Spanish town of Santa Fe, some seventeen hundred miles almost due west of it, in what is now New Mexico, contained over fifteen hundred people and had been established for over half a century.⁴

Can it be fairly presumed that the men concerned in the granting of the Virginia charter of 1609 were ignorant of these previous Spanish explorations? Some of them were amongst the most eminent and learned men of England. The charter grant was made in an age of unparalleled activity and general interest in new-world discoveries. Kings, nobles, great merchants, lawyers, bankers, and navigators alike sought to learn of the latest of these discoveries, by whomsoever made; and a report of any received in one country was sent post-haste to others. Many of the most enlightened minds of Europe were devoted to learning about the geography and other features of this new world. Its

Mobile Bay. Then he turned northward and about May, 1541, crossed the Mississippi at the lower Chickasaw Bluffs, explored the river northwardly nearly to the Missouri and turning southward died of yellow fever." Herbert H. Smith in *Universal Cyclopedia*, Vol. 11, p. 15; c. f. *Virginia Magazine of History and Biography*, XIII:137.

² Culican is in longitude 107.

³ Coronado's "relation" of his journey to Mendoza, viceroy of Mexico,—an unusually interesting and trustworthy document. It is given in *Harper's Encyclopedia of United States History*, Vol. 2, Title "Coronado."

⁴ "Among the old archives is found a census taken in 1605 which gives a population of 1,708 inhabitants." *Universal Cyclopedia*, X: 305.

whole Atlantic coast, from Greenland to Cape Horn, was fairly charted and shown on the maps; for the compass was then used on sea and land much as it is today.

One of the members of the Virginia Company was England's great geographer, Richard Hakluyt, master of Oxford and Prebendary of Westminster, in whose honor the Hakluyt Society of British geographers is named. That he, his associates, and the King's chief minister were all aware of the great width of North America in the latitude of Virginia, when the charter for that colony was granted, will affirmatively appear from several considerations.

Hakluyt was one of the most remarkable men of his remarkable time, universally esteemed, an intense patriot, ever solicitous for the glory and greatness of England, and an earnest advocate of English discoveries and settlements in the new world. He was a scholar familiar with many languages, the correspondent of many of the learned of Europe, and a favorite friend of Sir Robert Cecil, secretary of state under both Queen Elizabeth and her successor James I, who made the Virginia charter grant. For many years before Great Britain attempted any settlement in North America, Hakluyt had been carefully investigating the reports and charts of discoveries there. Two years before Queen Elizabeth issued to Sir Walter Raleigh his broad charter grant of 1584, Hakluyt published his *Divers Voyages touching the Discoverie of America and Islands Adjacent*. He then issued an edition of Peter Martyr's *De Novo Orbe* (1587) and other books on new-world discoveries, and, in 1598, the first of his three volumes on *The Principal Navigations, Voyages and Traffiques and Discoveries of the English Nation*, with many documents and accounts of two hundred and twenty voyages. The map he issued with this work Hallam declared "the best map of the Sixteenth Century."⁵

⁵ Hakluyt was buried with honors in Westminster Abbey. From his early years at Oxford he was an enthusiastic student of geography, lectured on that subject and sought to establish an endowed lectureship for its teaching in London. In his dedication of his "Divers Voyages" to Sir Philip Sydney, speaking of his

lectureship plan, he says: "for which cause I have dealt with the right worshipful Sir Francis Drake, that, seeing God hath blessed him so wonderfully, he would do this honour to himself and benefite to his countrey, to be at the cost to erect such a lecture; Whereunto, in a most bountiful maner, at the very

It was Hakluyt who seems to have induced Sir Francis Drake to undertake his famous voyage to discover a water passage through the North American continent *from the Pacific side*—no one having been able to find one from the Atlantic side. (See map.) Drake sailed through the Straits of Magellan, and coasted along the west shores of South America, Central America, Mexico, and California, making numerous landings and compass reckonings, and reached latitude 48° , nearly to the northern boundary line of the United States. In California he was nearly 3,000 miles due west of the Atlantic coast of Virginia, and within the charter territory soon after granted for the colony.

An interesting narrative of this voyage of exploration, written by Drake's chaplain, Mr. Fletcher, was soon afterwards published in London and may still be read.⁶ It bears many unmistakable evidences of verity. When in latitude 42° , opposite the northern boundary line of California, Drake met cold winds and fogs, but pressed on three hundred and sixty geographical miles farther to north latitude 48° . In explanation of Drake's desire to explore the coast as far north as might be, Mr. Fletcher said:

"Considering . . . that the time of the yeare now drew on wherein we must attempt, or of nessitie wholly give over, that action which chiefly our General [Drake] had determined, namely the discoverie of what passage there was to be found, about the Northerne parts of America, from the South Sea into our owne [Atlantic] Ocean, (which, being once discovered and made knowne to be navigable, wee should not only do our countrie a good and notable service, but we ourselves also should have a nearer cut and passage home) . . . we therefore, all of us, willingly hearkened and consented to our Generall's advice, which was to . . . hasten on our journey for the discoverie of the said passage, through which wee might with joy returne to our longed homes."

first he answered that he liked so well of the notion that he would give twenty poundes by the yeare, standing, and twenty poundes more beforehand to the learned man to furnish him with instruments and maps, that would take this thing

upon him. . . ." (*Divers Voyages touching the Discoverie of America*, "1582," Hakluyt Society Publications.)

⁶ *The World Encompassed*, Hakluyt Society Publications.

When the explorers reached latitude 48° , Fletcher's narrative says:

"The land in that part of America bearing farther out into the west than we before imagined, we were nearer on it than we were aware; and yet the nearer still wee came unto it, the more extremitie of cold did sease [seize] upon us. The 5 day of June wee were forced by contrary windes to runne in with the shore, which we then first descried, and to cast anchor in a bad bay,—the best roade wee could for the present meete with,—where wee were not without some danger by reason of the many extreme gusts and flawes that beat upon us. . . . In this place was no abiding for us, and to go further north, the extremity of the cold (which now utterly discouraged our men) would not permit us; and the windes directly bent against us, having once gotten us under sayle again, commanded us to the Southward whether we would or no. From the height of 48 deg., in which now wee were, to 38, we found the land, by coasting along it, to bee but low and reasonable plaine; every hill (whereof we saw many, but none varie high) though it was June, and the sunne in his neerest approach unto them, being covered with snow. In 38 deg., 30 min. [the latitude of the southern boundary of Virginia] we fell with a convenient and fit harborough, and June 17 [1579] came to anchor therein, where wee continued till the 23 day of July following."

Drake and his men were thus, for over a month, within the charter bounds granted to Virginia thirty years later. From this California harbor, after formally claiming the whole country for his queen, Sir Francis set sail by way of the Cape of Good Hope, for London, arriving there in September, 1580. He was the first Englishman to circumnavigate the globe, and his achievement electrified his countrymen. On his arrival Queen Elizabeth visited his now famous ship, and heaped him with honors; and well she might, for his discovery of the North American continent from the Pacific side had greatly strengthened her claim to the broad empire bearing her name and stretching three thousand miles from ocean to ocean.

In view of these facts, can it be presumed that when Drake and his companions were in California they did not know that they were some such great distance west of Virginia's Atlantic

coast line? Using the compass to learn their latitude and longitude, they had been coasting the unbroken western shore of North America for over four thousand miles to discover a passage through it to the Atlantic, yet found none, but a constantly broadening continent.

That Drake's discoveries were made public on his return to England, and that they were well known to both the grantor and grantees of the Virginia charter, are facts not left to presumption. After Drake's return, Hakluyt issued a second and larger edition of his "Divers Voyages," in which he added a full account of Drake's discovery; and this edition was dedicated to none other than Sir Robert Cecil, then secretary of state, and as such the chief official of the British Crown, responsible for granting the Virginia charter. The assertion, still frequently made by historians, that Virginia's charter bounds were prescribed in ignorance of the great width of the continent, and in the belief that it was merely a long narrow strip of land, seems to be nothing better than assertion. The motives of those who took up the assertion and gave it currency during the Revolution will appear later.

Although repeatedly anticipated by Spain in the discovery, exploration and settlement of North America, both Great Britain and France disputed her claims there and set up rival ones of their own. Asserting prior discovery by Cabot, during the reign of Henry VII, Great Britain claimed the whole continent north of the Spanish settlements in Florida; while France denied the validity of the British claim also, and maintained priority of her own discoveries and early settlements on the St. Lawrence and in the Mississippi Valley. Because all these powers were anxious to preempt as much as possible of this new-world territory, each granted vast areas to its subjects and sent colonists to claim actual possession in order to anticipate its rivals. The conflict between them, however, became one of might rather than priority of right; and the sea power of Britain and the preponderance of her American colonists were destined to win it.

As all know, the first permanent English settlement in America was at Jamestown in Virginia, in 1607. Before that time the coastal country along the Atlantic northwardly of

Florida was virtually known only as it had been viewed from the decks of visiting ships. The ill-fated attempt of Sir Walter Raleigh and Sir Humphrey Gilbert, in the preceding century, to found the Roanoke settlement on the North Carolina shore, had been discouraging; but Hakluyt and others were untiring in their efforts to further British discoveries and settlements in the new world. Some leading men of London formed "The London Company," and applied to the King for a colonial charter and grant of land in that great and vaguely defined part of North America claimed by Great Britain and called "Virginia," embracing the continent north of Spanish Florida. At the same time, and for a like purpose, another company, called the "Plymouth Company," was formed mainly by men of Plymouth—England's most western port convenient for new-world shipping.

April 10, 1606, King James I issued one charter to "Sir Thomas Gates, Sir George Somers, knights, Richard Hakluyt, Clark, Prebendary of Westminster, Raleigh Gilbert, . . . and divers others," as "The London Company," and another charter to "Thomas Hanman, Raleigh Gilbert, William Parker, George Popham and others," as the "Plymouth Company."⁷ Each company was given like rights to settle and own separate tracts of land in "that part of America commonly called Virginia . . . along the seacoasts" between latitudes 34° and 45°; but the territory of each was limited to one hundred miles square. The London Company was required to found its first settlement south of latitude 41°, and the Plymouth Company north of latitude 38°. Between latitudes 38° and 41°, either company could make its first settlement, but in that case the other was forbidden to settle within one hundred miles of it. Each company, upon founding a first settlement "upon the said coast of Virginia or America, where they shall think fit," was granted a tract of country extending from the settlement fifty English miles each way "all along the said coast, . . . and also all the lands . . . from the same *directly into the main land* by the space of one

⁷ Raleigh Gilbert was doubtless made grantee in both companies because of his interest under earlier grants to his predecessors, Sir

Humphrey Gilbert and Walter Raleigh. Popham was the brother of the Lord Chief Justice of England.

hundred like English miles . . . together with all the Islands within one hundred miles."^s

The London Company sent out colonists to locate its first settlement and, on May 13, 1607, Jamestown was founded. Glowing reports of the country and its mineral and other wealth were soon circulated in England, and aroused widespread interest amongst eminent and influential men, and a strong desire to share the riches of the new Eldorado. The Plymouth Company accomplished nothing, but the London Company rapidly grew to enormous proportions. The number, eminence, and influence of its members rapidly multiplied, and the company's demands for more territory for its colony and for additional privileges grew apace. By 1609 representatives of many of the great governing families of Great Britain, a large proportion of the nation's most eminent men, many high officials of the British government, and a large number of the great trade guilds of the day, became members of the London Company. On their application, the King granted them a new charter, vastly increasing the territory previously granted for the colony and securing to the company and colonists greater political rights.

Never had so large a part of the intelligence, wealth, social eminence, and political influence of the English nation supported a business venture. It will be well to remember this, for the fact is important in deciding whether, as some have asserted, this new charter was intended to limit Virginia's territory to a small tract beside the Atlantic, or to give the colony a vast empire stretching from ocean to ocean.

On May 23, 1609, the new charter was issued to "Robert [Cecil] Earl of Salisbury"—prime minister and lord high treasurer, "Thomas Earl of Southampton, William Earl of Pembroke, Henry Earl of Lincoln," and a long list of earls, viscounts, lords and knights—some 123 of them in all—and a much longer list of military and naval officers, merchants, bankers, manufacturers, lawyers, judges, ministers, tradesmen, "gentlemen," and some fifty-six of the great trade guilds, the Archbishop of Canter-

^s *Federal & State Constitutions, Colonial Charters, etc.*, VII:3783. This U. S. Government publication gives all the charters of the different colonies in full.

bury, head of the British Church, and one woman, "Milicent Ramsdent, widow," were members. The names of these grantees in the Virginia charter fill over four closely printed pages.

The charter refers to the earlier one of 1606 and to the efforts made "in furthering the business of the said Colony and Plantation," and, after reciting the King's favorable opinion of the application of these numerous petitioners, gives them "a further enlargement . . . of the said grant," and grants to "the Treasurer and Company of Adventurers and Planters of the City of London for the first Colony of Virginia," a broad territory extending from the Atlantic to the Pacific, then called the "South Sea." The granting clause of the charter, which became a subject of conflicting interpretations and warm dispute during the Revolution, reads as follows:

"We do . . . give, grant and confirm unto the said Treasurer and Company and their successors . . . all those Lands, Countries and Territories situate, lying and being in that part of America called Virginia, from the Point of Land called Cape or Point Comfort *all along the Sea Coast to the northward two hundred miles* and from the said Point or Cape Comfort *all along the Sea Coast to the southward two hundred miles*, [the part south of Virginia's present southern boundary was afterwards granted to Carolina] *and all that Space and Circuit of land lying from the Sea Coast of the Precinct aforesaid up into the land throughout from Sea to Sea, West and Northwest*; and also all the Islands lying within one hundred miles along the Coast of both Seas, together with all the Soils," etc.⁹

The northern end of this "Sea coast . . . Precinct," or base line (if run straight), was a point on the New Jersey seashore opposite northern Delaware. The boundary line, running from that point "northwest," would cross Pennsylvania, Lake Erie, and Northwestern Canada. (For convenience, state names will be used to indicate localities, although the states were not created until long afterwards).

This Virginia charter of 1609 contained the following pro-

⁹ *Federal & State Constitutions, Colonial Charters, etc.*, VII:3795.

vision, which became very important when the extent of the grant became a matter of dispute:

"In all Questions and Doubts that shall arise upon any difficulty of Construction or Interpretation of anything contained either in this, or in our said former Letters Patent, the same shall be taken and interpreted in most ample and beneficial Manner for the said Treasurer and Company and every Member thereof."¹⁰

The foregoing are all the provisions of the charter describing the territorial grant, or directing the manner of interpreting it in case of doubt; but the charter also contains a very important assurance of liberties for the colonists, the King saying:

"We do, for us, our Heirs and Successors, DECLARE by these presents that, all and every, the Persons, being our Subjects, which shall go and inhabit within the said Colony and Plantation, and every their Children and Posterity which shall happen to be born within any of the Limits thereof, shall Have and Enjoy all Liberties, Franchises, and Immunities of Free Denizens and Natural Subjects within any of our other Dominions, to all Intents and Purposes as if they had been abiding and born within our Realm of England."¹¹

This grant to the London Company of so vast and valuable a territory claimed by Spain aroused her keen jealousy; and from this time forth her efforts to check and wreck the British settlements in Virginia were unceasing.¹² Furthermore, for 175 years after the grant, its history consisted of one long succession of attempts—first by kings and royal favorites, later by great land syndicates, and finally, by rival American states—to pare away and appropriate parts of Virginia's chartered empire.

The next charter grant of American territory was of "New England" in 1620 by King James I. Contrary to a quite prevalent belief, it in no way conflicted with his previous grant to Virginia. On the contrary, it expressly provided that it should *not* be construed to embrace any land within the Virginia grant. It

¹⁰ Id. 3801.

¹¹ Id. 3800.

¹² See *The Genesis of the United*

States (Alexander Brown) and *The First Republic in America* (same author).

described New England as embracing a strip of the continent extending between latitudes 40 and 48 from ocean to ocean, together with adjacent islands, but:

*"Provided always, that the said Islands, or any of the Premises hereinbefore mentioned, and by these Presents intended and meant to be granted, be not . . . within the Bounds, Limitts, or Territoryes of that Southern Collony [Virginia] heretofore by us granted to be planted by divers of our loving Subjects in the South Parts."*¹³

It will be well to bear in mind this express proviso, for it will be found that a failure to do so has led to much misunderstanding and exaggeration of the western extent of the charter claims for Massachusetts and Connecticut, both of which were based on this early grant of New England. To this day historians and map-makers commonly misdescribe Connecticut's original territory as including the sites of Cleveland and Chicago, and Massachusetts' as including those of Detroit and Milwaukee. The New England charter grants extended no farther west than the Virginia boundary line running from the Atlantic "north west" through Pennsylvania and New York.

The technical legal title of King James I to the lands he granted the London Company, "for the Colony of Virginia," and his legal power to *make* the grant were conceded by all British subjects; but not so his power to *alter* the grant. This power of alteration, however, was also claimed for the King by his supporters under his "ancient prerogative." Soon after the Virginia charter grant, this much strained royal prerogative was most vigorously opposed by British champions of the liberties of the British people, and in the conflict the great governing company of Virginia played an early and most important part.

For several years after the grant, the King's relations with the company were quite harmonious. Two years later he gave it an amended charter,¹⁴ extending its broad grant to embrace all islands *within nine hundred miles* (instead of *one hundred* as

¹³ *Federal & State Constitutions, Colonial Charters, etc.*, VII:3790.

¹⁴ *Federal & State Constitutions, Colonial Charters, etc.*, VII:3082.

before) off either ocean coast of its mainland territory. The amendment also provided for four regular, quarter-annual "Assemblies, . . . called the Four Great and General Courts of the Council and Company of Virginia," with power "at all times hereafter to . . . appoint such officers as they shall think fit and . . . make such Laws and Ordinances for the Good and Welfare of the said Plantation as to them, from time to time, shall be thought requisite and meet."¹⁵ This provision for the four assemblies of the company probably seemed of no great moment when made; but at this time the great conflict in England over royal prerogatives and the people's rights was brewing, and in the next reign was to send Charles I to the block. The Virginia Company's assembly became the main forum for disputes between the rival parties. The Spanish ambassador informed his King that the assemblies were "a seminary to a seditious parliament," and King James himself so declared them. He and his royalist followers soon found the Virginia charter had granted to the governing company and colonies liberties inconsistent with what he deemed his royal prerogatives.

The political conflict in England rapidly became intense, and in the Virginia Company's assemblies the champions of popular rights won the upper hand. Thereupon they adopted for the colony an "Ordinance and Constitution" which gave the colonists what was then considered a very liberal government.¹⁶ This Constitution provided a "General Assembly" for the colony, to consist of "two Burgesses out of every Town, Hundred, or other particular Plantation, to be respectively chosen by the Inhabitants," and that in this general assembly "all matters shall be decided, determined, and ordered by the greater part of the Voices then present; reserving to the governor always a negative Voice; And this General Assembly shall have free Power . . . to make, ordain, and enact such general Laws and Orders for the Behoof of the said Colony and the good Government thereof as

¹⁵ Id.

tics in Virginia (A. Brown);
Cooke's *Virginia*.

¹⁶ Id. 3810; *The First Republic in America* (A. Brown); *English Poli-*

shall from time to time appear necessary, or requisite." Thus all laws, including those imposing taxes, were to originate in the colony's popular assembly, although they were "not to be or continue in force or validity unless . . . confirmed by the company's 'General Quarter Court'." This form of government was substantially the one under which the colony continued until the American Revolution, except that after a time the King was substituted for the company in appointing executive officers and confirming or vetoing the laws passed by the colony's Assembly of Burgesses.

A quick-growing spirit of freedom in the colony soon developed. In 1619 its Assembly demanded of the governing company authority "to allow or disallow of *their* orders of Court, as his Majesty hath given *them* power to allow or disallow of our laws."¹⁷ Here was the genesis, in 1619, of the American demand of "government by consent of the governed." This Virginia "constitution" was the first charter of free government in America, and the struggle of the company and the colonists to maintain their charter and freemen's rights and to build up a great colony in Virginia, was perhaps the most resolute and heroic in our early annals, although so little noticed in the earlier American histories.

After some years of dreadful discouragement, due to disease, Indian hostility, and Spanish intrigue, the colony under its liberal government greatly prospered, and by 1622 its population is said to have grown to over four thousand.¹⁸ But the King and the royalist champions of his prerogative looked askance upon the growth of popular rights under the Virginia charter, and determined to get rid of it and the company too. Doubtless fearing, however, to incense the popular party in England by more arbitrary measures, James I resorted to his pliant law officers to oust the rebellious company from the government of the colony under the forms of law. His attorney general accordingly instituted a *quo warranto* proceeding before royalist judges of the Court of King's Bench to annul the company's charter, and a

¹⁷ *First Republic in America* (A. Brown) p. 321; *Cooke's Virginia*, 115-16.

¹⁸ *Cooke's Virginia*, 124.

judgment doing so was soon obtained. The legal effect of this judgment has been much misunderstood.¹⁹

From this time forth Virginia was repeatedly stripped of large and valuable parts of her charter territory by the faithless Stuart kings. From the broad expanse granted by King James I, parts were arbitrarily given by his successors to Lord Baltimore and William Penn, while another part was carved off for Carolina. By treaty with France in 1763, her western charter bounds were restricted (this time lawfully) to the center line of the Mississippi. In 1776 she voluntarily waived her claims to Maryland and Pennsylvania, and she had previously accepted the North Carolina line as her southern boundary; but, north of that line and westwardly of Pennsylvania, she stoutly asserted her charter title to the region extending westwardly to the Mississippi and northwardly to the Great Lakes and beyond.

The last American charter grant issued by King James I was that of 1620 to the New England Company. Although the charter grant expressly provided that it should not extend to any territory previously granted to Virginia, Massachusetts and Connecticut, during the Revolution, based upon it attenuated claims to long, narrow strips of western lands extending to the Mississippi and within Virginia's charter bounds.

The comparative freedom of the early New England colonies from interference from abroad was in great measure due to their distance from Spanish Florida and to the small importance attached to them at first by the rulers of Great Britain and Spain. The Virginia settlement, on the other hand, was the special object of Spain's jealousy, for it ignored her American claims and threatened her adjacent possessions in Florida. The difficulties encountered by Virginia's governing company and the dreadful

¹⁹ It did not destroy the existence of the colony, or the rights of its inhabitants, or alter its territorial limits, but only changed the governing power from the company to the King. As the Supreme Court of the United States has declared, it simply "invested in the crown the

powers of government of the colony and the title to the lands within its limits" (*Johnson v. McIntosh*, 8 Wheaton 578), meaning the technical legal title held for the benefit of the colonists. (See William Wirt Henry's *Life of Patrick Henry*, II:99).

sufferings and losses of the colonists, were largely caused by Spanish diplomatic intrigue in London and Spanish tampering with the Carolina and Virginia Indians. The Spanish minister, Gondomar's, "task was to keep James from aiding the protestant states against Spain and Austria and to avert English attacks on Spanish possessions in America."²⁰ During the later years of the reign of James I, a main object of Spanish diplomacy was to wreck the Virginia colony and secure his acquiescence in Spain's claim to North America. It was largely to effect that object that Spanish diplomacy seemed to welcome the marriage of his son Charles to the Infanta of Spain.

The efforts of the Virginia Company's liberal leaders to put the colony on a firm basis were repeatedly thwarted by the secret opposition of the Spanish diplomatists, and by King James' fear of losing Spain's good will. That, rather than the crying needs of the Virginia colonists, sometimes determined whether supply ships should sail for their relief.²¹

²⁰ *Encyclopedia Britannica*, XII: 232, "Gondomar."
²¹ *Id.*

CHAPTER II

FRENCH AND ENGLISH IN NORTH AMERICA

Early in the eighteenth century France, Spain and Great Britain had colonial territories bordering on the Mississippi Valley; and all claimed it and resolutely contended for it. France, indeed, took more or less actual possession of it. Long before any British colonists settled west of the Alleghenies, the French, led by venturesome traders, by benevolent priests, such as Joliet and Marquette, and by daring captains like La Salle and the D'Ibervilles, had penetrated the great valley wilderness and established thriving towns and trading posts on numerous routes between Canada and the mouth of the Mississippi. They had considerable towns at New Orleans, at Vincennes on the eastern bank of the Wabash River in what is now Southwestern Indiana, and at Kaskaskia and Cahokia on the east side of the Mississippi in the present State of Illinois.

These Illinois and Wabash towns carried on a thriving trade with the Indians and shipped large quantities of furs, flour, and other products to New Orleans, and live stock to Detroit.¹ Offsetting the sweeping claims of the British King and colonies to the whole country from the Atlantic to the Pacific, France could well assert its title to the great valley by discovery and actual occupation.

In the north, the routes of French trade and settlement avoided the region now embraced within New York and Pennsylvania, and passed westward along the Great Lakes and thence to

¹ Other French trading posts among the Indians during the first half of the eighteenth century were near the sites of the modern cities of Sandusky and Toledo, Ohio; Fort Wayne and Lafayette, Ind.; St. Joseph, Mich.; Green Bay and Milwaukee, Wis.; Peoria, Ill., and at several points along the Mississippi below the mouth of the Ohio.

the tributaries of the Mississippi.² It may be wondered why they did not pass more directly from Montreal to the nearer headwaters of the Ohio and down that stream; but the lakes offered both easier transportation and a more profitable fur trade, and furthermore, the overland route through New York to the Ohio was blocked by the Iroquois Indians who lived in that colony, and who were early antagonized by the French.

Compared with the widely scattered French of Canada and the Mississippi Valley, the British colonies contained a relatively large and compact population. Yet in this day, when more than a hundred million people inhabit the United States, it is difficult to realize the sparsity of population and crudeness of life, even in the oldest and best settled parts of the Atlantic colonies. Their entire population, even so late as the outbreak of the American Revolution, was little larger than Kentucky's today, and was nearly all found along the bays and streams near the Atlantic. Nearly everywhere it was distinctly rural. The settlements were small and widely separated, both in distance and time. Communication was almost as slow as in England five hundred years earlier, and the conveyances much the same. There were almost no graded or metalled roads, and except near chief towns, none at all. A colonial gentleman in his four-horse carriage traveled the rough and dusty or miry roads, climbed rocky hills and forded streams so slowly and with so many mishaps and detentions that walking was often easier and faster. Visiting was usually done

² Thus, French pirogues going from the west end of Lake Erie up the Maumee to its headwaters (near the present Fort Wayne) could, by a short land carriage, be launched on the headwaters of the Wabash and float down that river, the Ohio, and Mississippi to New Orleans, where furs usually found a ready sale for export to Europe. Or the pirogues could be carried from the headwaters of the Maumee to and down the St. Joseph River, thence across the southern end of Lake

Michigan, and either by way of the Chicago or Kankakee down the Illinois River to the Mississippi. Other and more northerly routes to that great artery were still earlier used by the French. The pioneer routes of Marquette and La Salle were from the Straits of Mackinac across Lake Michigan to Green Bay, thence up the Fox River and down the Wisconsin to the Mississippi. See *American History and Its Geographic Conditions*, by Ellen C. Semple.

on horseback, or in "dug-out" canoes, rowboats, or small sailing vessels, and heavy transportation was mainly by water.

Much the greater part of the country was then still densely wooded. Perhaps nineteen-twentieths of the people lived on farms more or less dispersed in a great forest extending, with occasional breaks and here and there a considerable clearing about some village or small city, from the confines of Maine to those of Georgia. Towards the west, it swept in an almost unbroken waving wilderness over the Blue Ridge and Alleghenies to the Mississippi and beyond.

The village and even the city boy of that day had not far to go for his wild turkeys and squirrels; and many a farmer's son, living in what was then deemed a thickly-settled region, had killed his buck and perhaps a bear. Reared amidst such surroundings, most men knew fairly well how to handle firearms and were not unacquainted with the pathless woods. Yet the average farmer, or farmer's son, was far from being really expert in either marksmanship or woodcraft. That distinction belonged rather to the borderer, who lived with his rifle in the wilds, depended upon it for his daily meat supply, and perforce was trained in the severe school of Indian warfare. Men of this class played a much more important part in the French and Indian war, and in the armies of Washington, than is perhaps commonly thought. Their experience, hardihood and resourcefulness were indispensable in the vitally important work of scouting, foraging and overcoming the difficulties of transportation in the rough country of that day; while in actual battle, because of their trained courage, skill in taking advantage of cover, and accurate marksmanship, they were unrivaled. In two, if not all, of the three most decisive battles of the Revolution east of the Alleghenies—Saratoga, King's Mountain, and Cowpens—our victories were really won in the forest and, both in preliminary movements and in the crisis of fight, were chiefly due to these riflemen from the frontiers.

Even seven years after the Revolution, when our first census was taken, there were but five cities in the United States having so many as eight thousand inhabitants, and all of them together contained less than half the present population of Louisville. The chief city, Philadelphia, had fewer people than now live in Lex-

ington, Ky., and was far inferior to it in wealth, industries, and trade, to say nothing of machinery, transportation, and innumerable modern conveniences.

"The colonial policy of England during the seventeenth and eighteenth centuries was dictated by the theory that settlements were 'plantations' whose industries must serve British interests."³ Needed colonial manufactures were prohibited by the British government, and many onerous restrictions were imposed on colonial trade—all for the benefit of the British merchants and manufacturers. Tobacco, rum, and a great variety of other products were prohibited from export, except in British ships and to British ports, where they were subjected to heavy duties. In like manner, imports to the colonies were required to be brought from Great Britain in British ships. Even Pitt declared that "if the Americans should manufacture a lock of wool, or a horse shoe, he would fill their ports with ships and their towns with troops."⁴

To evade the harsh restrictions, smuggling became common in all the colonies, and on a very large scale in northern and especially New England ports, where ship building and commerce were leading interests. Large shipments of molasses from the West Indies evaded the British revenue officers and found their way to Newport, Bristol, and Boston, where they were made into rum. The proceeds, invested in trinkets and gaudy fabrics, were taken to the African coast and there exchanged for captured negroes, many of whom were sold for slavery in New England, but most of them to planters in the southern colonies or West Indies. For generations, the chief smugglers, rum-makers, and slave traders in the American colonies were New England men; and they opposed and defeated Virginia's repeated efforts to stop the importation of slaves into the colonies.⁵ These facts are stated because they should be known by all descendants of slave owners and distillers, not only of Virginia, Kentucky, and other southern states, but of New England.

In all the British colonies, schools were few and generally

³ *Industrial History of the United States* (Coman), p. 79.

⁴ *Mississippi Valley in British Politics*, I:51.

⁵ *Minor's Institutes of Common and Statute Law*, I:181, 183, 191, 194-5.

poor. There were indeed respectable academies for boys at Cambridge, Yale, Princeton and William and Mary at Williamsburg, then the capital of Virginia; but the ratio of the sons of well-to-do parents attending them was small. There were no colleges for women. Most boys of that period were quite content with such rudimentary education as could be had from the neighborhood schoolmaster—often some Scot, Scotch-Irishman, or Englishman educated in the old country—who taught reading, writing, and arithmetic, and perhaps Euclid and Latin, with the frequent aid of birch or hickory switch. In the homes of most well-to-do people dictionaries were almost unknown. Doctor Johnson's lexicon was then new, even in London. Nearly everyone in the colonies spelled, capitalized and punctuated in his own way, or perhaps according to a few crude and ill-remembered rules given him by his schoolmaster. Usually those words which impressed one as important ones—big or unfamiliar words, or ones he would emphasize—were begun with capitals, regardless of their place in a sentence, or their character as proper or common nouns, verbs, adjectives, or other parts of speech.

Reading the typical ill-written letters of that day, one is apt to think the writers almost wholly uneducated; yet, if their spelling and punctuation be reformed, it will often be found that their composition was really excellent. The fact was, many an intelligent and well-informed colonial gentleman, fairly well read and something of a master of the fine art of polite conversation, was yet unpracticed, halting and awkward in letter writing. Many could hardly write at all, for the country was new and life too full of other and more attractive interests for young people to become students, or scribes. In some parts, as in New England, the soil yielded but a scant support in response to hard and constant labor; and there a large part of the people engaged in trade, fisheries and navigation—pursuits which called forth energy and thrift rather than scholarship. One has only to read the letters of the time to realize how low was the general level of scholarship, even within the shadow of Harvard and Yale.

Farther south, with more fertile lands, a more genial clime and abundance of slave labor, the white people, excepting the very poor, usually lived in comparative ease and idleness, indulged more in social intercourse and sports, and found serious employment rather in public affairs and in directing the work of their

slaves than in working themselves—a condition perhaps even less encouraging to popular education than the busier life of New England.

Yet low as was undoubtedly the general level of culture in the colonies, there was in all of them a small class of men whose abilities and accomplishments would have given them high rank amongst the learned and great of Europe. Franklin and Jefferson, for example, were amongst the world's recognized intellectuals of their day—men eminently practical, yet of greatly varied culture and far reaching views. In all the colonies, especially the southern ones, sons of the rich were sent to England to be educated, and from them some of the great leaders of the Revolutionary era were drawn.⁶

Although the great mass of the people were poor, in every colony some lived in sumptuous residences,⁷ entertained with ostentatious hospitality, and not infrequently flattered themselves with liberal social pretensions. Class distinctions, it should be remembered, were then everywhere recognized as a matter of course. The Adams in Massachusetts, the Rutledges and Pinckneys in South Carolina, and the Washingtons and the Lees in Virginia, alike professed and had been reared to feel a real submission and devotion to their King and deference to the nobility—not indeed as men, but as representatives of venerated institutions. They were alike ready to accept inferior place in the presence of a lord. The Revolution did not grow out of opposition to monarchy, nor by reason of a prejudice against nobility, but because of the more practical objection of the colonists to having their property taken by taxation without their consent.

The fashions and manners of the American colonists prior to the Revolution, and sometimes their morals also, were taken from London; and in London, with all its highly polished social veneer of courtly dress and manner, the example of many eminent social leaders of noble and even royal degree, caused drinking,

⁶ See Mrs. Ravenell's charming *Life and Letters of Mrs. Eliza Lucas Pinckney*, a truly great woman of early times in South Carolina. (*Colonial Women Series*.)

⁷ Those of Charleston were unique in elegance and today are perhaps

the most interesting in America. The leading families of the lowlands of South Carolina were perhaps in closer touch with England socially and educationally than those of any other colony.

gambling, duelling and even baser vices to be too often foolishly esteemed as marks of gentility. Naturally these vices were not without imitation in the colonies; and when practiced under the cruder conditions of provincial life they lost none of their grossness. Fortunately, however, this very provincialism, with the attraction of wholesome out-of-door interests in a new and growing country of scattered homes, the counter-influence of those homes, the strong religious bent of a very large part of the people, and, not least, the fine influence of the womanhood of the colonies, saved the colonists from more serious contamination. Yet no one reading the familiar letters of that period can ignore the truth that, both in Great Britain and the American colonies, drinking was then an almost universal custom, that gambling was common and regarded as a gentlemanly pastime, and that a duel was thought the honorable way to resent an insult.

The British and French claims and settlements in the Mississippi Valley have been seen; but what of the right of the Indians there to the lands which had immemorially been theirs? The answer is that they were regarded as having no rights except such as the dominant white nation claiming their country chose to concede to them. Under the Law of Nations, recognized by all the great powers of Europe, uncivilized aborigines, such as the American Indians, became subjects of that Christian nation which first discovered and claimed their country; their lands became the property of that civilized nation. It was a hard rule for the Indians; but it was made by the lions for the lambs. After a time, however, this injustice was so far modified under British law as to concede to the Indians the right to live on and use the lands where they lived and hunted; but this was the full extent of an "Indian title"—a mere right of occupancy and use. The land itself was not considered as belonging to them, but to the sovereign power (whether king or commonwealth) of the white nation, which could legally deprive them even of their occupancy. Time and again lands of the Indians have been taken from them by Great Britain, her American colonies, and the United States; and if the savages received other lands to occupy, or other substantial compensation, this was only because the governments of the whites, in dealing with the red men, adopted a course of action not wholly selfish. When something like orderly govern-

ment became established in the British colonies white men were forbidden to buy or encroach upon Indian lands—partly in justice to the Indians, but mainly to prevent expensive wars with them. The colonists were allowed to settle on them only after the king, or the colonial government with his permission, had by treaty with the Indians extinguished their right of occupancy and opened the lands for grant and settlement.

Notwithstanding the very restricted and insecure nature of "Indian titles," they played an extremely important part in American history, and particularly in that of the trans-Allegheny region, including Kentucky. In the conflict with France over the ownership of the Mississippi Valley, the British claim was mainly based on an asserted Indian title—and a fictitious one, at that. In the bitter and tremendously important controversy which later arose between the American states during the Revolution over that region, and particularly West Virginia and Kentucky, it will be found that the states north of Virginia based claims to shares of the lands there on no more substantial ground than that fictitious Indian title. To understand Kentucky's history it is necessary to know the nature of those "Indian titles," the areas some of them were claimed to cover, and the way they were used to uphold the contentions of rival claimants. Yet it is believed the subject has never been explained in any history of Kentucky, nor adequately in any other.

Up to 1700 few Virginia colonists were venturesome enough to make their homes even so far west as the eastern slopes of the Blue Ridge Mountains, although eastward of them the country had been pretty thoroughly rid of troublesome Indians. West of those mountains, in the Valley of Virginia, were some remnants of the old seaboard tribes, but they were both few and weak. Far to the south in the Carolinas and northward in New York, however, were two formidable nations—inveterate enemies who sometimes passed through the Virginia Valley in their wars with one another. These were the confederated Five Nation Iroquois of West-Central New York, and the Cherokees of the Carolina mountains. In 1713 the Tuscaroras, living in the Carolinas, were driven out by the Cherokees and whites and, fleeing to New York, were taken into the Iroquois Confederacy, which thenceforth became known as the "Six Nations." Because the Cherokees and

Iroquois lived near the whites and were early supplied with fire-arms, they easily overcame some more westerly tribes no less numerous and warlike, but still using only the bow and arrow. The Cherokees overran great stretches of country south of the Ohio, and claimed to own the whole wilderness between that river and the Tennessee; while the Iroquois made similar pretensions in the North.⁸

It should be clearly understood, however, that Indian raids and territorial pretensions extended many times farther than their real conquests. This fact will be found historically very important; for, first in the disputes between Britain and France over the western country, and afterwards between the American states, and between Virginia and great land companies, rival claims to vast western regions were based on nothing better than vague claims set up for Cherokees or Iroquois arising from their pretended conquests. Claims to Kentucky were set up by interested parties for each of those nations, and it will be found that the one set up for the Iroquois by northern states and land companies came dangerously near severing Kentucky from Virginia and making it a territorial possession of the Continental Congress.

The Indians were tireless travelers, marched unencumbered with a commissary, lived where they went upon the game and other foods which nature provided, and when furnished with guns, like the Cherokees and Iroquois, might overrun great stretches of country and defeat every poorly armed tribe they encountered; yet they made no permanent conquests far from their homes, for they did not remain in the enemy's country. The distant conquests claimed for them were in reality no more

⁸ Because the Cherokees lived near and claimed the region in Virginia where the headwaters of the Tennessee ran, the river was called by the Virginians "The River of the Cherokees." In like manner, because the Allegheny source of the Ohio was in the Iroquois country, that river was given the Iroquois name, "Ohio," by the French. The British, in their desire to magnify the Iroquois territory, absurdly represented the whole Ohio River, clear to its junction with the Mississippi, as the River of the Iroquois. On the other hand, the French, who became acquainted with the Ohio by way of the upper Wabash, considered the Ohio and Wabash one river, and called it the "Wabash."

than mere successful forays. By dividing into small bands, they found food on their march against a distant enemy, and could gather at an appointed place of attack hundreds of miles away; but there they were sure to suffer hunger, unless they could quickly take provisions from the enemy, for game near a besieged town was always scarce and certain to become much scarcer after their arrival. Their victories therefore had to be swift, and they made no long sieges. If victorious, their plunder was limited to what they, or their prisoners, could carry; but to carry it themselves, or to feed and drive prisoners on a long return journey through hundreds of miles of wilderness, was troublesome work which few savage warriors deigned to undertake. This in part explains their common practice of killing women, children, and feeble men prisoners who were unable to travel fast or far.

The real bounds of an Indian tribe's lands were very vague and embraced only its ordinary hunting range, where the hunters found the buffalo and other large game on which the tribe relied for food, clothing and shelter. This ordinary hunting range, it should be understood, was by no means so extensive as the range of its war parties, but was quite limited, simply because heavy and bulky meats and hides could not well be brought home from any great distances. Between the settlements of neighboring tribes were usually great unoccupied areas, rarely visited by any of them and really owned by none, yet probably claimed by several; and here their occasional hunting parties would sometimes meet and clash, and wars would follow. Yet the victors rarely did more than take some scalps and prisoners and return home to boast of fabulous prowess and vast conquests. The corn of the defeated might be cut or burned, but the forests and streams yielded them many kinds of food; their town might be destroyed, but their wigwams could be quickly rebuilt; and soon the life of the defeated tribe, its hunting range, and its territorial pretensions would be substantially as before, and its defeat a mere tradition, if acknowledged at all.

During the closing years of the seventeenth century the New York Iroquois made extensive western raids which have been absurdly magnified in history. Equipped with guns, their war parties easily defeated western tribes more numerous and no whit less warlike than themselves, but unfamiliar with firearms.

While La Salle and a few other Frenchmen were in the Illinois, the Iroquois undoubtedly carried one or two raids into that distant region; but they were nothing more than mere raids. Soon afterward, however, the French in the West rapidly increased in number, and supplied the Indians there with guns. Then the western Indians defeated the invaders; and there were no more Iroquois raids into their country.⁹ Farther south the experience of the Cherokees was doubtless similar. They probably raided the countries of the Creeks and Chickasaws pretty much at will, until those nations also were supplied with guns by the French of Louisiana and the Spanish of Florida, and then the great Cherokee raids ceased.

The Iroquois are often described as by far the most warlike and powerful of all the Indian nations; but this idea seems less due to their superiority in performance than to our failure to appreciate their advantages in war, and our ignorance of the early exploits of the western and southern nations. Because the early raids of the Iroquois concerned, and were recorded by, their white neighbors—the British in New York and the French in Canada and Illinois—history tells us much of Iroquois prowess and conquest, and often with amazing exaggeration; whereas the performances of the southern and western Indians were rarely recorded, or even known by the whites. Furthermore, the Iroquois were courted, incited to war, supplied, reinforced and sometimes led by their white allies. Without the supplies and support they thus received, they would doubtless have been driven from their homes as the seaboard Indians had been.¹⁰

In the long conflict between France and Great Britain over the ownership of the Mississippi Valley, the British diplomatists

⁹ Gen. William Henry Harrison published an address (1837) contending that the Miami Confederacy was never conquered by the Iroquois.

¹⁰ All the tribes were warlike, as the American people have ever found when undertaking to oust them from their lands. During the Revolution the troops and settlers

whom the Iroquois vanquished were generally no such expert woodsmen and riflemen as the borderers and pioneers whom the Shawnees, Miamis, and Cherokees had to fight. In the Cherry Valley and Wyoming raids of the Iroquois, their victims were generally far less familiar with Indian warfare and therefore more easily slaughtered.

set up some very extraordinary claims. They asserted that the Iroquois were Great Britain's subjects; that France, by the treaty of Utrecht in 1713, had acknowledged them to be such; that they had conquered the whole of a vast but undefined trans-Allegheny region, and had submitted it to the jurisdiction of the British King.

Naturally a claim so audacious was supported by no less audacious assertions of fact. The pretended Iroquois western conquests were alleged to cover an area vast enough to embrace all the lands the British wanted. Exactly when the alleged vast conquests were made, where they were made, from what Indian nations they were made, and what particular areas were embraced by them, these British diplomatists did not care to say!¹¹

In truth, for nearly a hundred years before the outbreak of the French and Indian war (1754), successive British ministries, diplomatists, map-makers, colonial governors of New York, and superintendents of Indian affairs were conspiring to magnify the pretended conquests of the Iroquois and stretch them to cover the whole western country coveted by Great Britain.¹² Many and preposterous were the pretended evidences invented to support their claim. It was usually an easy matter for a New York governor's agent to get the friendly Iroquois chiefs together at a treaty and, with the aid of suitable suggestions and rum, induce them to assert any sort of conquest and to sign pretty much any sort of agreement desired. Thus, it was alleged that they conveyed to the British King (1701) all their territories (without any description of bounds) to hold for them and their protection.¹³ Eight years later, the British Board of Trade, directing colonial and Indian affairs, set forth the Iroquois conquests in these sweeping words: "The said Five Nations, most warlike in those parts of the world, held all their neighboring Indians in a manner of tributary subjection. They went some-

¹¹ In one of the numerous treaties written in 1726 for Six Nation chiefs to sign, they are indeed made to say that "all the land where the beaver hunting is, . . . we won with the sword eighty years ago;" but where that land was, the treaty report failed to say; and

even if the chiefs made the assertion, it was doubtless no more than tribal boasting. (*Report of Regents of University of New York on New York Boundaries*, 105-6.)

¹² Winsor's *Mississippi Basin*.

¹³ *Report of Regents, etc., on N. Y. Boundaries*, I:104.

times as far as the South Sea, the Northwest Passage [wherever that might be!] and Florida to war, and extended their conquests over that part of the country now called Canada."¹⁴

By such absurdly false assertions did Great Britain seek to justify its claim to the Mississippi Valley. Parkman says:

"The Treaty of Utrecht declared the Iroquois or Five Nations to be British subjects;¹⁵ therefore it was insisted that all countries conquered by them belonged to the British Crown. But what was an Iroquois conquest? The Iroquois rarely occupied the countries they overran. Their military expeditions were mere raids, great or small. Sometimes, as in the case of the Illinois, they drove off the occupants of the soil, who returned after the invaders were gone. But the

¹⁴ *N. Y. Colonial Documents*, V: 74-5.

¹⁵ This is an overstatement. The Treaty of Utrecht said: "The subjects of France inhabiting Canada shall hereafter give no hindrance or molestation to the Five Nations or Cantons of Indians subject to the dominion of Great Britain, nor to the other nations of Americans who are friends to the same. In like manner, the subjects of Great Britain shall behave themselves peaceably towards the Americans who are subjects or friends of France; and on both sides they shall enjoy full liberty of going and coming on account of trade. All the nations of these countries shall, with the same liberty, resort as they please to the British and French colonies for promoting trade on one side and the other, without any molestation or hindrance, either on the part of the British subjects, or of the French; but *it is to be exactly and distinctly settled by commissaries, who are and who ought to be accounted subjects of Great Britain or of France.*"

The decision of such commissaries, "exactly and distinctly"

settling which Indians were "to be accounted subjects of Great Britain, or of France," was evidently intended to *precede* the operation of this provision of the treaty; but no commissaries were ever appointed. The British found it more convenient to determine for themselves which were their "subjects." When another war with France impended, they simply ignored this decidedly important clause and brazenly asserted (1) that by this treaty France had unconditionally acknowledged that all Five Nation Indians were British subjects, even though some lived in Canada and were friends of the French; and (2) that *all western Indians* had been conquered by the Five Nations and were British subjects, notwithstanding nearly all of them were allies of the French and were fighting both the Five Nations and the British! Of course the British also claimed the lands of all these alleged "conquered subjects" of the Five Nations.

The Treaty of Utrecht was published in full in the *Boston News Letter* of Aug. 31 and Sept. 14, 1713.

range of their war parties was prodigious, and the English laid claim to every mountain, forest, or prairie where an Iroquois had taken a scalp."¹⁶

Parkman here does scant justice to the startling sweep of the claims set up by the British for the Iroquois, for they extended thousands of miles beyond any region that an Iroquois had ever seen.

Hinsdale says: "The acknowledgment that the dominion of the Iroquois was in the English government gave but the flimsiest claim to the lands south of the lakes." This is true, for two distinct reasons. One is that the Iroquois never conquered any western country beyond a limited region near Lake Erie; the other reason is that, under the recognized rules of international law, neither they nor any other Indians ever owned even the lands they occupied, or were capable of transferring them. A civilized nation's jurisdiction over lands occupied or claimed by savages was not considered as being derived from them, but either from original discovery, or by grant from some other civilized nation. Even, therefore, had the Iroquois conquered every Indian tribe from Lake Erie to Mexico, and attempted to convey the conquered tribes' lands to the British king, he would not thereby have acquired right to an acre of them as against any other Christian power. Any other rule to determine the territorial rights of civilized nations would have led to endless wars between them; for their boundaries would have been continually shifting as the uncontrollable Indian subjects of one would conquer the Indian subjects of another.

¹⁶ Parkman's *Montcalm and Wolfe*, I:125.

CHAPTER III

BARRIERS TO WESTERN COLONIAL MOVEMENT

The geography of the Appalachian region, between the country of the Cherokees in North Carolina and that of the Six Nations in New York, largely moulded the history of our nation during its formative period.¹ It was over this region, and especially the part of it now embraced by Southwestern Pennsylvania, West Virginia, Southwestern Virginia and Northeastern Tennessee, that the westward trans-Allegheny movement of the British colonists began. By reference to the map, opposite, the outstanding feature is seen to be the two nearly parallel mountain ranges—the Blue Ridge and Alleghenies. The Blue Ridge, extending northeastwardly from northern Georgia, gains great height in North Carolina and Virginia, but in eastern Pennsylvania breaks into scattered foothills. During the infancy of the colonies, the weak settlements along the bays and streams near the Atlantic were protected by this frowning ridge from the Indians living or passing west of it, and were thus enabled more easily to overcome the seaboard tribes. The more western Allegheny Mountains, extending from northeastern Alabama through Tennessee, southwestern Virginia, eastern West Virginia, Maryland, and Pennsylvania, likewise break into foothills in Pennsylvania and New York. Between these two great mountain ranges is the great Appalachian trough. From the highest part of this trough, in southwestern Virginia, streams flow both northeastwardly along the “Valley of Virginia” to the Potomac, and southwestwardly into the “Valley of East Tennessee.”

How closely the early Virginia settlements clung to the bays and rivers near the Atlantic is shown by the fact that so late as

¹ The subject is lucidly treated in Churchill Semple, a very able and *American History and its Geographic Conditions*, by Ellen learned Kentucky woman.

1725—one hundred and eighteen years after the settlement of Jamestown—very few settlers had advanced even to the eastern foothills of the Blue Ridge. Only nine years earlier, in 1716, Governor Spottswood and his “Knights of the Golden Horseshoe” had for the first time ascended to the crest of the ridge and viewed the Valley of Virginia; and it was nearly ten years later before a white settler entered the valley.²

It was through the Valley of Virginia, and over a well known “war-road,” that the Cherokees and Six Nation Iroquois passed in their early wars with one another. The valley was inhabited only by a few remnants of the subdued tribes who formerly dwelt east of the Blue Ridge.³ They lived in constant fear of Cherokee and Iroquois war parties, and appealed for protection against them to the governor of Virginia. He accordingly made treaties with both these warring nations and obtained their promise not to molest the valley Indians; but the promise was soon broken by the Iroquois. Thereupon, in 1722, the governor demanded, and the Six Nations in formal treaty with him agreed, that no Iroquois should thereafter enter Virginia east of the Alleghenies, without the governor’s written permission, and even then not more than ten at a time.⁴ As the region west of the Alleghenies

² Kercheval’s *Valley of Virginia; Virginia Magazine of History and Biography*, XIII:113-9.

³ These Valley Indians in 1705 were listed as Notoways, Nansemonds, Meherrius, Pamunkeys, Chickahomins, Ocheneeches, Strenge-mocks, Merpontskys, and Toteros. All told, Governor Spottswood in 1712 estimated them as aggregating only 750; and, long before the middle of the century, even these few virtually disappeared. (*Virginia Magazine of History and Biography*, XII:337 et seq.) The subject is fully discussed in the same publication, volumes XII and XIII, by Mr. Charles E. Kemper, who gives the proceedings of the Virginia Council, treaties, etc., from the beginning of the eighteenth century, and references to Indian inhabitants, loca-

tions, and wars between the Blue Ridge and the Ohio River. His conclusion is that “There is no evidence that the Valley of Virginia was inhabited to any extent immediately preceding the coming of the whites about 1730-4. Burial mounds here and there . . . prove an Indian occupancy at an early period, but their history has been lost.”

⁴ Virginia Council Proceedings in *Virginia Magazine of History and Biography*, supra. Winsor in his *Mississippi Basin* erroneously says this treaty made the Alleghenies the boundary line between the colony and the Six Nations. He could never have seen, or else misread, the treaty agreement. Virginia at no time agreed on a boundary with those Indians, or recognized them as having any title to any part of

was then wholly unexplored, there was of course no occasion to restrain Indian movements there. Even the Indians found the Alleghenies uninviting, because of the almost endless succession of rugged ranges, although no doubt they were occasionally visited by hunters from the nearest tribes. One chief said: "The deer do not live in them mountains"—meaning, of course, in large numbers. It was in the more level and fertile regions farther west, where good grazing abounded, that vast herds of deer and buffalo were found. They soon learned to avoid the haunts of men, especially of those using firearms, the sound and scent from which alarmed them far more than the twang of the bow and whiz of the arrow of the Indians of earlier times.

Although the wilderness between the Ohio and the Tennessee was free from formidable Indians, on the north side of the Ohio there were many warlike nations. A short distance below the site afterward occupied by Pittsburgh there were a few Shawnees and other Indians at Loggstown. Farther down were the Delawares, with their chief towns on the Muskingum, while west of them, by the Scioto, were main towns of the Shawnees—both fierce tribes which were to play important parts in the coming wars. West and northwest of them were other Indian nations much more numerous and no less warlike.⁵

her charter territory. They, on the contrary, by later treaties expressly admitted the colony's right over the whole of that territory.

⁵ Early during the Revolution the Delawares migrated to central Indiana. Northwest of the Shawnee towns on the Scioto, part of the Miamis, also called Wyandots, lived on two rivers bearing their name and flowing into the Ohio. These Indians lived within what is now the State of Ohio, as did others near Lake Erie, sometimes called the Sandusky Indians. In northeastern Indiana were the main settlements of the Miamis, near the site of Fort Wayne. West of them, on the upper Wabash River, were the Ouiatenons—sometimes called "Ouias," or "Weas." Lower on that

river, near Vincennes, were the Piankeshaws, whose chief was known as "The Grand Door of the Wabash." In Illinois were various nations. Their chief gathering place, and a main center of Indian trade, was Cahokia on the Mississippi, a short distance below the mouth of the Missouri, nearly opposite St. Louis, which was the main trading post of Spanish upper Louisiana. In southwestern Michigan were the Pottawatomies, north of them the Ottawas and Saginaws, as well as part of the Chippewas. The main body of Chippewas were west of Lake Michigan, as were the Sacs and Foxes. There too were Sioux, who spread over a large region, especially west of the Mississippi.

Of the numbers and locations of the Indian nations east of the Mississippi, we have only widely varying and unreliable reports. In some the numbers are grossly exaggerated, in others much underestimated. In truth, their numbers could only be guessed; for they were widely scattered, many of them were rovers, many lived in small groups far from the main towns of their tribes, and many were probably never heard of by the occasional white visitors upon whose loose estimates we must rely. One needs only to read the journals and letters of these visitors to realize how limited, vague, and untrustworthy was their information. The number of Indians between the Ohio and the Great Lakes, when the British colonists first came into contact with them, towards the middle of the eighteenth century, has been variously estimated, but perhaps thirty to forty thousand would be approximately correct. How impossible it is to form a reliable estimate will be seen by comparing the numbers given by different writers, varying all the way from four or five thousand to over sixty thousand.⁶ The southern Indians were considerably more numerous than those north of the Ohio. Nearly all—northern and southern alike—were hardy, brave and formidable fighters.

"In 1730," says Perkins, "the projects of the French for uniting Canada and Louisiana by a cordon of posts through the Ohio and Mississippi valleys began to be developed. To counteract this scheme, the British government sent out Sir Alexander Cumming to conclude a treaty with the Cherokees, who could then put 6,000 warriors in the field. In April, 1730, Sir Alexander met the chief warriors of all the Cherokee towns in council and made a treaty with them."⁷ It is said to have made a line

⁶ Winsor's *Western Movement* (pp. 88 and 310), gives 20,000 to 30,000 warriors east of the Mississippi and north of the Ohio. His *Critical and Narrative History* gives many estimates, including Bancroft's, of 180,000 east of the Mississippi and south of the Great Lakes. (VI:650 et seq.) Jefferson's *Notes on Virginia* (pp. 151-5) gives varying lists based on early

reports from George Croghan and others, but they were evidently mere guesses. See also Dalton's list in 1783. (*Pennsylvania Packet*, Aug. 12, 1783, and *Draper MSS.* 32 J 118.)

⁷ *Western Annals* (Perkins). The fighting force of the Cherokees is greatly exaggerated by Perkins, as that of the Iroquois generally is also.

extending northwardly across the Alleghenies, their eastern boundary.

Long before British colonists settled west of the Alleghenies, their adventurous hunters and fur traders had penetrated the upper Ohio country and some even much farther west and northwest. Their reports of almost fabulous natural wealth there awakened the desire of many alert men in the colonies to get large estates in the wilderness lands; and great western land schemes grew like mushrooms during the middle of the eighteenth century. The leader in these enterprises seems to have been Col. Thomas Lee, a prominent Virginian of distinguished English ancestry, father of Richard Henry, Arthur, and Francis Lightfoot Lee, and uncle of Col. Henry Lee, the father of Gen. Robert E. Lee.

With other prominent Virginians, Col. Thomas Lee organized a company called "The Ohio Company," to get from the King a grant of 500,000 acres of land on the waters of the Ohio, in what is now West Virginia, which, because nearest the settled eastern part of the colony and likely to be first developed, was then considered an especially valuable part of the great western wilderness. Although virtually uninhabited by Indians, southwestern parts of it were doubtless hunted over by the adjacent Cherokees, and northwestern parts by the Shawnees and Delawares living across the Ohio; but the whole of it was recognized both by Virginia and the British Crown as being within the country of the Cherokees. The original and bold method pursued by Colonel Lee to effect his purpose will now be explained. His first aim was to get rid of the "Indian title" of the Cherokees, and accordingly his company petitioned the King to authorize the governor of Virginia to treat with those Indians for the coveted lands. About the same time the proprietary governor of Pennsylvania also asked the King's permission to treat with the Six Nation Iroquois for some land in Pennsylvania, not very far from their towns and claimed by them as their hunting range. To save expense, the governors of both those colonies, and Maryland also, were authorized to hold one treaty meeting with the nations from whom cessions were desired, and it was accordingly held at Lancaster, Pennsylvania. Both Cherokees and Iroquois were invited to take part, and at first both agreed to do so; but when the time for

meeting came, the Cherokees did not appear, but sent word that they were not willing to meet their old enemies. This must have sorely disappointed Colonel Lee, but he doubtless thought that a deed from one Indian nation would serve his purpose about as well as from another, provided the King would recognize it; so he simply ignored the claims of the Cherokees to the lands his company wanted and proceeded to get one from the Six Nation Iroquois!

Witham Marshe, secretary, left an interesting account of the treaty pow-wow, which Perkins gives "as a specimen of the mode in which the Indians were treated with."⁸ Perkins says:

"The Maryland commissioners reached Lancaster upon the 21st. of June, (1744) before either the governor of Pennsylvania, the Virginia commissioners, or the Indians had arrived, though all but the natives arrived that evening. The next forenoon wore wearily away, and all were glad to sit down at one o'clock to a dinner in the courthouse, which the Virginians gave their friends and from which not many were drawn, even by the coming of the Indians, who came, to the number of two hundred and fifty-two,—with squaws and little children, on horseback and with their fire-arms and bows and arrows and tomahawks, and, as they passed the courthouse, invited the white men with a song to renew their former treaties. On the outskirts of the town, vacant lots had been chosen by the savages to build their wigwams upon, and thither they marched on with their friend and interpreter, Conrad Weiser, while the Virginians 'drank the loyal Healths' and finished their entertainment.

"After dinner they went out to look at their dark allies, who had few shirts among them, and those black from wear, and who were very ragged and shabby; at all which the well-clad and high-fed colonists bit their lips but feared to laugh. That afternoon the chiefs and commissioners met at the courthouse, 'shaked hand,' smoked a pipe and drank 'a good quantity of wine and punch.' The next day, being Saturday, the English went to the Dunker's nunnery, and the Indians drank and danced and shrieked. Monday the speaking began, to the satisfaction of all parties, and ended merrily with dancing and music and a great supper.

"On Tuesday and Wednesday, also speeches were made,

⁸ *Western Annals*, p. 47; Colden's *History of Iroquois*, cited (p. 49).

varied by dances in which appeared some very disagreeable women who 'danced wilder time than any Indians.'

"On Thursday the goods were opened, wherewith the Maryland people wished to buy the Indian claim to the lands on which settlements had been made. These goods were narrowly scanned by the red men, but at last taken for £220 Pennsylvania money, after which they drank punch.

"Friday the Six Nations agreed to the grant desired by the Marylanders, and punch was drunk again; and on Saturday a dinner was given to the chiefs at which . . . they 'fed lustily, drank heartily, and were very greasy before they had finished.' At this dinner the Indian bestowed upon the governor of Maryland the name of Tocryhogan, meaning 'Living in the honorable place.' After this came much drinking and, when that had gone forward some time, the Indians were called on to sign the deed, which had been drawn up, and the English again 'put about the glass, pretty briskly.' Next, the commissioners from Virginia, supported by a due quantity of wine and bumbo, held a conference with the Indians and received from them 'a deed releasing their claim to a large quantity of land lying in their colony,' the Indians being persuaded to 'recognize the King's right to all the lands that are, or by his Majesty's appointment shall be, within the colony of Virginia.' For this they received £220 in gold and the like sum in goods, with a promise that as settlements increased more should be paid, which promise was signed and sealed. . . . The commissioners from Virginia were Colonel Thomas Lee and Colonel William Beverly."⁹

In 1747 the Ohio Company petitioned the King for "a grant of 500,000 acres of land in the Ohio Valley, to be located mainly between the Monongahela and Kanawha rivers,"¹⁰ and this grant the King ordered to be made by the governor of Virginia.¹¹ It was but one of many instances in which Virginia's jurisdiction west of the Alleghenies was recognized by the British Crown.¹²

⁹ *Western Annals* (Perkins), p. 47. *Minutes of Provincial Council of Pennsylvania* (Harrisburg, 1851) IV:698-773 gives the treaty and proceedings in full. See also *Virginia Magazine of History and Biography*, XIII:141.

¹⁰ Alden's *New Governments West of Alleghenies*, p. 3; Hinsdale's *Old Northwest*, p. 58.

¹¹ *Mississippi Valley in British Politics* (Alvord), I:87.

¹² *Id.* I:88. "The Government of Virginia, always fearful of some infringement of its western rights by the imperial government, threw all obstacles it could in the way of the enterprise. Virginia had already begun on her own account to make land cessions in this western region.

When the Shawnees learned of the grant, they vigorously protested against any white settlements being made there, for they dreaded the approach of British settlers. The French also were concerned, for they saw that "if the British once obtained a stronghold upon the Ohio, they might not only prevent their settlements upon it, but must at last come upon their lower posts, and so the battle be fought sooner or later."¹³ "Gallissonniere, then governor of Canada, determined to place, along the Ohio, evidences of the French claim to, and possession of, the country; and for that purpose, in the summer of 1749, sent Louis Celeron, with a party of soldiers, to place plates of lead, on which were written out the claims of France, in the mounds, and at the mouths of the rivers."¹⁴

In view of the approaching war with France, it became the British policy to encourage settlements in the eastern parts of the Ohio Valley; and with the King's approval the governor of Virginia granted many hundreds of thousands of acres there, to land companies, to soldiers for past services, and to those who would volunteer for the coming war. The largest grant was of 800,000 acres to the Loyal Company (1749), of which the leading spirit was Dr. Thomas Walker, of whom we shall presently learn more.¹⁵ At this time Virginia's charter right to the trans-Allegheny region was repeatedly recognized by the King, and seems to have been generally conceded save by the French. Its governor caused the erection of Fort Pitt, where Pittsburgh now stands. "On August 27, 1754, the king instructed the Virginia government to grant lands west of the Alleghanies in lots of one thousand acres, free from the payment of quitrents for ten years

The first concession of one hundred thousand acres on Green Brier River was made April 26, 1745, to John Robinson and others. Other grants followed in rapid succession. According to the report of the Ohio Company, as soon as the news of the negotiations with the company reached Virginia, the governor and council increased the number of gifts, some of which threatened its rights."

¹³ Perkins' *Western Annals*, p. 50.

¹⁴ Id.

¹⁵ Col. Thomas L. Preston, in his *Historical Sketches and Reminiscences* (Richmond, B. F. Johnson Publishing Co.), shows James Patton a main organizer, with Walker, of the Loyal Company, and a main spirit in the early exploration and settlement of the Holston Valley. Patton's sister was the mother of Col. William Preston, perhaps the foremost man in the Virginia Valley during the early years of the Revolution.

and without the usual fee of five shillings for each fifty acres.”¹⁶ Under direction of the British government, “in order to promote the enlistment of men in the colonial troops, Governor Dinwiddie of Virginia issued a proclamation on February 9, 1754, in which he promised ‘that, over and above their pay, 200,000 acres of his Majesty the King of Great Britain’s lands on the East side of the River Ohio shall be laid off and granted to such persons who by their voluntary engagements and good behavior in the said service shall deserve the same’.”¹⁷ It was under this proclamation that a great number of tracts of land in Kentucky were afterward surveyed for soldiers who served in the French and Indian War.

Before war broke out, both sides made great efforts to win support from the Indian tribes, especially those nearest the upper Ohio, where the storm center promised to be. Stimulated by French emissaries, the Shawnees and Delawares again complained of Virginian settlements near the Ohio; and to remove their objection, Governor Dinwiddie appointed commissioners who held a treaty with them at Loggstown, June 9, 1752. At first the Indians vigorously objected to making any concessions, one Delaware chief saying: “The French claim all the land on one side of the river, and the English all the land on the other side of the river. Where is the Indian land?”¹⁸ Their objections, however, were overcome, and a treaty agreement made whereby they renounced any claim to the country southeast of the Ohio, consented to Virginian settlements there, and promised that the settlers should not be disturbed.¹⁹ Six Nations Iroquois chiefs also attended the meeting and agreed to a treaty again “recognizing and acknowledging the Right and Title of his Majesty . . . to all lands within the Colony of Virginia.” They also confirmed the deed Colonel Lee had got from them at Lancaster, consented to the “settlement or settlements of British subjects on the southern or eastern parts of the River Ohio,” and declared that they “promise that the said settlement or settlements shall

¹⁶ Alvord's *Mississippi Valley in British Politics*, I:89, citing *Ohio Company Papers*, I:87; *The Conduct of the Ministry* (1756), p. 23.

Colonial Office Papers, 5.1330, pp. 323-330.

¹⁸ *Harper's Encyc. History*, "Ohio Land Co.," Vol. VII.

¹⁷ *Id.*, citing Public Record Office,

¹⁹ Perkins' *Western Annals*, p. 55.

be unmolested by us.”²⁰ The year before, the Ohio Company’s agent, Christopher Gist, commenced a survey of the land between the Monongahela and Kanawha, where the company proposed making its first settlements, and spent the winter in that labor.

This treaty seemed to promise security to Virginians settling on the southeastern side of the Ohio, but they were soon rudely undeceived. French troops attacked a party of English colonial traders in the Miami Valley, killed fourteen Wyandot Indians defending them, and took the traders as prisoners to Canada. “So stood matters,” says Perkins, “at the close of 1752. The English had secured a title of the lands southeast of the Ohio, and Gist was at work laying out a town on Shurtee’s Creek about two miles below the Fork.”²¹ Eleven families also were crossing the mountains to settle at the point where Gist had fixed his own residence, west of Laurel Hill, and not far from the Youghogany. Goods too had come from England for the Ohio Company, which however they could not sell, and dared not carry beyond Wills Creek.”²²

While the Virginians were thus pressing over the Alleghenies, the French were at work establishing a cordon of military posts from Niagara along the Allegheny and Ohio rivers to the Mississippi. Washington, with Gist as his guide, and accompanied by the Wyandot “Half King,” and a few other friendly Indians, was sent by Governor Dinwiddie to pacify the savages and demand the intentions of the French. On the way, Washington endeavored to arrange a friendly meeting with the chiefs of the Delawares and Shawnees; but they would not come, and he went north, met the French commander, and learned that France would fight to maintain its claim as far east as the Alleghenies. Soon after this war broke out on the upper Ohio, although some two years passed before it was formally declared by the British and French kings.

²⁰ *Virginia Magazine of History and Biography*, XIII:173-4, giving the proceedings fully. It will be observed that in neither of these treaties did the Virginia authorities ask or receive any grant of lands from the Six Nations, or acknowledge that they had any title to lands within the colony, but simply took

an acknowledgment of the pre-existing title of the British king and colony.

²¹ Chartier’s Creek (?). See map in Crumrine’s *Old Virginia Court House of Augusta Town, Near Washington County, Pa.* Washington County His. Soc. Pub. 1905.

²² *Western Annals*, p. 56.

While the Virginians were taking possession of the eastern fringe of the trans-Allegheny country, alert men in the more northern colonies were also looking wistfully to the rich western lands for great estates. Naturally they viewed with jealousy Virginia's control of the vast western empire within her charter bounds. Great Philadelphia merchants, particularly, had long carried on a profitable trade with the Indians in the western wilderness and were concerned lest Virginia should stop it. Soon some of them were asserting that the region belonged to the King, and furthering schemes to get large land grants there without Virginia's consent.

The first proposal to treat the trans-Allegheny region as the common property of all the colonies came from Benjamin Franklin, at the so-called "Congress of Albany," in 1754. As the origin, purpose, membership, and outcome of the "Congress" have been strangely misstated in many histories, the facts about it will be briefly explained.

On the eve of war with France, the British Board of Trade wrote to the governors of several northern colonies to send commissioners to make a treaty of alliance with the Six Nations; and one was made at Albany, New York. At the same time and place, the commissioners also held a conference of their own which has gone into history with the high-sounding name of the "Congress of Albany." To this day it is sometimes represented as a congress of all the colonies, and as the forerunner of the American Union.²³ In fact, it was only a meeting of commissioners from four New England colonies, Pennsylvania, and Maryland, to make a treaty with the Iroquois Indians. Doctor Franklin did indeed propose, and the commissioners did recommend, a "Plan of Union" of the colonies which he drew up; but the meeting was not called for any such purpose, and his "Plan of Union" was stillborn; for it was never approved either by the King, or by the government or people of any colony.²⁴ Nor was the idea of colonial union then a new one; or, as many suppose, first suggested to the conference by Franklin. The Massachusetts "Gen-

²³ For example, the *Cambridge Modern History*, VI:412-13, says all the colonies were represented and voted for union under the "far-reaching ideas of Franklin."

²⁴ "The scheme was disapproved by the colonists as giving too much power to the crown. It was rejected by the home government as giving too much independence to the colonies." (Id. VII:69.)

eral Court or Assembly" had directed its commissioners to attend the meeting for the purpose of treating with the Indians and "also for entering into Articles of Union and Confederation with the aforesaid governments . . . of several of his Majesty's Plantations."²⁵ Franklin's abortive "Plan of Union" did indeed go further and take in all the colonies; but it was very far from being the genesis of the continental union which was formed over twenty years later, and was brought about by oppressive British legislation after the French and Indian war—particularly the Stamp Act of 1765.

At the Albany meeting Franklin did, however, suggest another idea pregnant with great consequences, and wholly his own; and "thereby hangs a tale" which makes one of the most important and neglected chapters in American history. That idea, as expressed in his own words, was "that the bounds of those colonies which extend to the South Sea be contracted and limited by the Allegheny or Appalachian mountains." His plan of union provided that colonies having "inconvenient dimensions" (in other words, Virginia, the Carolinas, and Georgia) should be thus limited, and their western lands made subject to the control of a Congress in which the nine colonies north of the Potomac, having no substantial claims to any of the lands, would have a majority of votes and be able to appropriate and dispose of the lands to suit themselves. Even had the southern colonies been represented in the conference, they would hardly have consented to being thus deprived of their western territories. Notwithstanding his "Plan of Union" proved abortive, Doctor Franklin soon afterwards drew up, and sent to England for approval, plans for the establishment of two colonies in Virginia's charter territory west of the Alleghenies; but the breaking out of the French and Indian war blocked all such schemes and nothing came of Franklin's.

As all know, France lost the war. By treaty of peace at Paris (November 3rd, 1762) it surrendered Canada and all the country it had claimed east of the center line of the Mississippi, except the island of New Orleans and a very small area east of it. This area, and the great region extending west of the river to the

²⁵ *Documentary History of New York*, II:545.

Rocky Mountains and known as "Louisiana," Great Britain conceded to France; but all British subjects were given the right, forever, to the free navigation of the Mississippi through lower Louisiana to the sea. Florida also was ceded to Great Britain by Spain, in exchange for Cuba, which the British had captured during the war.

On the same day, however, that France made this preliminary treaty with Great Britain, it also made another and secret treaty transferring to Spain all Louisiana, including New Orleans and the small area east of it already mentioned. That little area, although apparently insignificant, gave Spain both banks of the lower Mississippi and was to become of great importance in the history of the United States, and particularly of Kentucky; for, when the American colonists ceased to be British subjects, Spain claimed they had lost the right to use the river through her territory, and this led to most serious controversies, during and for many years after the Revolution. For nearly twenty years the navigation of the Mississippi was the subject which, excepting only Indian warfare, was of paramount interest in Kentucky.

CHAPTER IV

WESTERN LAND SCHEMES

One of the first results of the peace with France was the great Indian Conspiracy of Pontiac to exterminate the English in the West. How far it was instigated by the French is not known. The Indians were informed that the French King (their "Father," as they called him in their ceremonious speeches) had transferred them and their lands to the British; but they were little inclined to have themselves and their property thus given away. The bloody consequences all know; from Pittsburgh to the Mississippi, from the Ohio to the Straits of Mackinac, soldiers, settlers, and traders were almost simultaneously attacked and numbers slaughtered and despoiled. This was in 1763.

When the news of the uprising reached London, the need for immediate steps to pacify the Indians was evident and pressing. The fertile lands and profitable fur trade of the western country were much coveted in England; the King's treasury, too, was almost exhausted, and further Indian wars would be very expensive. Accordingly, one of the first acts of George III, after peace was made with France, was to issue a proclamation forbidding settlements west of the Alleghenies, and reserving the region for the use of the Indians.¹

The purpose and the legal effect of this famous proclamation have been subjects of controversy ever since it was issued. It seemed to treat the western country as the private property, or "royal domain," of the King; whereas, the colonists claimed that his predecessors had long before granted every foot of it to the

¹ Colonial governors were forbidden "for the present and until our further pleasure be known, to grant warrants of survey, or pass patents for lands beyond the heads of any of the rivers which fall into the Atlantic Ocean from the west or north-

west, or upon any of the lands whatever which, not having been ceded to or purchased by us as aforesaid, are reserved unto the said Indians or any of them." Sparks' *Works of Franklin*, IV:374; *Illinois Historical Collections*, X:39.

American colonies. Many thought the proclamation only a temporary expedient, designed to prevent Indian war; Washington so thought, but he probably knew little of the motives back of the proclamation. In Great Britain many interests had to be satisfied; and, as already seen, it was British rather than colonial interests which were served by the London government.

Undoubtedly the prevention of Indian wars was one motive for excluding colonial settlers from the western country, but another and perhaps stronger one was the protection of the fur trade of the London merchants. They were mightily interested in preserving the wilderness for the Indians, who, although successful hunters and trappers, were very poor traders and sold their furs at such small prices that great profits could be made on them in London. Perhaps even more influential than the fur merchants in bringing about the proclamation were royal favorites and others in England who coveted wealth in the rich lands of the American wilderness and hoped to get great grants from the King. It will soon appear how powerful an influence this land-lust in England became.

Despite the royal prohibition of colonial grants and settlements west of the Alleghenies, however, settlements continued to be made, and many influential individuals and land syndicates sought large land grants there. One of the first was the Mississippi Company, composed in part of Virginians already interested in the Ohio Company. There were fifty members, including a number of the Washington, Lee, Fitzhugh and other noted families. They proposed founding a colony on the east side of the Mississippi, in what are now southern Illinois and western Kentucky, and prayed the King for a grant of 2,500,000 acres there.² The Ohio Company also sent its agent, Colonel Mercer, to London to get from the King a new grant, more definitely located than the blanket one it had already received.³

Both these Virginian companies were composed of men who, after a time, must have learned that, however eminent and efficient in other lines of effort, they were but amateurs in the art of winning royal favors when such favors were often the reward of official corruption. Some of the members of a Phila-

² *Illinois Historical Collections*,
X:19, 20; XI:570.

³ Alvord's *Mississippi Valley in British Politics*, I:95, 315.

delphia land syndicate, presently to be mentioned, were politically wiser. Its history begins soon after the peace of 1763, and is at once interesting and amusing; but it is much—very much—more, for it exercised a tremendously powerful and sinister, though strangely overlooked, influence on the whole course and results of the Revolutionary war. Almost, if not quite, as much as the British and Indians, it influenced the destiny of Kentucky. In fact, it largely moulded the history of the United States.

When, in 1763, France surrendered all claim to the region east of the Mississippi, the French residents there were given eighteen months to choose between leaving or swearing allegiance to the British King. Many of the Illinois French left—most of them crossing over to St. Louis, which was then founded for their reception and trade. Their exodus caused a rapid decline in the value of Illinois lands, and the decline was further increased by the failure of many remaining residents to declare their British allegiance within the time prescribed, which, it was thought, forfeited their lands to the King.⁴

Soon afterwards Sir William Johnson, the King's superintendent of Indian affairs in the Northern Department, sent his deputy, George Croghan, to the West to quiet the Indians following Pontiac's conspiracy. Croghan was a shrewd Irishman of Western Pennsylvania who had long been engaged in the Indian trade in partnership with one William Trent. Croghan saw an opportunity to profit by getting title to the fertile lands of the Illinois French, and proposed to his superior a scheme to apply to the King for a large grant of them. Sir William readily agreed and secretly used his official influence to further the scheme. He was much relied on by the London government, which gave him considerable power over Indian affairs and trade in his department, which extended southwardly only to the Ohio; and he was not averse to using his power and influence for his own profit.

Others coveting shares of the same rich Illinois lands were the members of the great Philadelphia Quaker trading firm of Baynton, Wharton & Morgan. The junior partner, George Morgan, was a man ever fertile in western money-making and political schemes; but preeminently the ablest and most influential member of the firm was Samuel Wharton, who soon became

⁴ French petition for extension of time, *Ill. Hist. Collns.*, XI:111-14.

a political power in London and later in the American Congress. The firm had a branch house at Kaskaskia, managed by Morgan, and carried on an extensive trade with the Indians; and it also had large contracts for supplying the British troops in the Illinois.⁵

Baynton, Wharton, and Morgan, with several other Philadelphians and Governor William Franklin of New Jersey, natural son of Doctor Franklin,⁶ determined to form a colonizing company and petition the King for an extensive grant of these Illinois lands. Knowing the importance of securing the personal and official influence of Sir William Johnson, they invited him and his deputy, Croghan, to join their scheme, which they willingly did.

At a meeting of the promoters in Philadelphia, in which Croghan acted for Sir William as well as himself, the promoters formed a company and agreed to apply to the King for a grant of 1,200,000 acres of Illinois lands, "or more thereof if to be procured;" and also for a charter and a much larger land grant for a colonial company which they proposed organizing.⁷ Six of the promoters, Baynton, Wharton, Morgan, Sir William Johnson, Croghan and Governor Franklin, were each to have one-eighth (150,000 acres), the remainder being divided equally amongst four others.⁸ Governor Franklin was to prepare the papers and send them to his father, then in London. Doctor Franklin had been residing there for some years as agent of Pennsylvania, and had made many influential friends in official and scientific circles. Sir William Johnson, whose connection with the scheme was to be kept a close secret, was to recommend it to the London government as if he were entirely disinterested.

The day after the partnership was formed, Croghan wrote one of his oddly constructed letters, informing Sir William of what was done and proposed, saying:

"Itt is preposed that its not to appear, till the Success of our plan is known, that your honour & Governor franklan is

⁵ *Miss. Valley in British Politics*, 300 et seq.

⁶ William Franklin was knighted and appointed governor of New Jersey through the influence of the King's favorite, Lord Bute, whom he had met in Scotland.

⁷ *Ill. Hist. Collns.*, XI:255, giving the bounds of the Colony to embrace all Illinois and large parts of Indiana and Wisconsin.

⁸ *Idem* 203. Joseph Wharton, Sr., Joseph Wharton, Jr., Joseph Gallo-way and John Hughes.

concern^d, Butt this is Submitted to y^r honour. Itt is likewise preposed to aply for a Grant of 1,200,000 Acres of Lands to the Crown in that Cuntry, and to Take into this Grant two or three Gentlemen of fortune and influence in England, and Governor Franklan and those other Gentlemen Desier to know whome your Honour wold Chouse there to be Concern^d, & that you wold write to them. If you Should nott name the Whole you wold Chouse, they Designe to leve the Nomination of such as you Dont to Dr. Franklen, who they prepose to send the preposals to. he is much attended to by the ministry and Carteany Can be of Service in this affair & Governor franklen has a good Dail to say, wh^h you may judge by his haveing Intrest aNouff to Turn Cap^t. Cannada out of his Shipec on a Trefeling Dispute between them.”⁹

Doubtless by arrangement with his Philadelphia associates, Croghan further tempted Sir William to enter the scheme, by saying:

“Plese to present my Complem^{ts} to Cap^t Guy Johnson [Sir William’s son-in-law] and inform him that I have taken *two* Sixteenths in this affair only to present him with one of them, wh^h I Begg his acceptance of.”

Sir William, not unwilling secretly to use his influence with the British ministers to further a scheme which promised him a great fortune, promptly took advantage of the privilege given him to name “two or three Gentlemen of fortune and Influence” in England “to be concern^d” in the scheme. In a letter to Governor Franklin—after salving his conscience for the course he was about to pursue—he said:

“I am extremely Sensible both of the honor & kindness intended by referring a Nomination to me, & therefore I take the liberty of proposing Lord Adam Gordon & Gen^l Gage as Two—I have some reason to believe that the Nobleman and Gentleman I mention will incline to the proposal & have some interest to forward the General Scheme.”¹⁰

General Gage, to his credit, declined to have anything to do with it, but Lord Gordon became an active promoter in London. Sir William’s letter further said:

“Mr. Croghan tells me that it is intended to request my

⁹ Idem 205.

occasion who declines being concerned.” Idem 318 and note.

¹⁰ Johnson wrote Gov. Franklin: “I have sounded Gen^l Gage on the

approbation in form, previous to its being sent home [to England], and I am of the same opinion, as I can better recommend the Affair to the consideration of the ministry, which I shall do in the strongest terms."¹¹

Meantime Governor Franklin wrote to his father, explaining the project. Referring to Croghan, he said:

"A few of us, from his encouragement, have formed a company to purchase of the French, settled at the Illinois, such lands as they have good title to & are inclined to dispose of.¹² But as I thought it would be of little Avail to buy lands in that country unless a colony was established there, I have drawn up some proposals for that Purpose; which are much approved of by Col. Croghan & the other Gentⁿ concerned in Philadelphia, and one sent by them to S^r W^m for his Sentiments, which when received, the whole will be forwarded to you. It is proposed that the Comp^y shall consist of 12 in America & if you like the proposals you will be at liberty to add yourself & such Gentlemen of Character & Fortune in England as you think will be most likely to promote the Undertaking."¹³

Doctor Franklin promptly replied: "I like the project of a colony in the Illinois and will forward it to my utmost here;" and this he did.¹⁴

The British government's colonial affairs were directed by the Board of Trade for the Colonies, but subject to supervision by the secretary of state for the colonies and to supreme control by the "King in Council." General Conway was then secretary of state, and it was to him that Sir William Johnson addressed his letter

¹¹ The formal request for Sir William's approbation and the "Reasons for Establishing a Colony in the Illinois," both of which he forwarded through Governor Franklin to Doctor Franklin to be mailed to General Conway, will be found in *Ill. Hist. Collns.*, XI:247-8, 257.

¹² The idea of purchasing the lands, if ever seriously entertained, Carter says seems to have been abandoned. In his *Great Britain and the Illinois Country*, Carter first traced the history of the scheme,

and Alvord, in his *Mississippi Valley in British Politics* and in X and XI *Illinois Historical Collections* has added further information. To both much credit is due for valuable research amongst the original records; also to the state historical society and government of Illinois, for their liberal encouragement of such work.

¹³ *Illinois Historical Collections*, XI:220.

¹⁴ *Franklin's Works* (Sparks Ed.), IV:233; Carter's *Great Britain and the Illinois Country*, 123.

recommending the Illinois scheme; but the letter was sent, unsealed, to Doctor Franklin, with the request, after reading it, to mail it to Conway.¹⁵ It was certainly a model of duplicity. In it, after discussing other matters, as if more important, Sir William said:

"I beg leave now to address you on a different subject at the request of several Gentlemen of fortune and character in the Province of Pennsylvania who have transmitted to me the enclosed proposals of erecting a Colony at the Illinois & earnestly desired I should refer it to you with my thought on the subject. As the scheme appears to me so reasonable & well calculated for the mutual interest of Great Britain and its colonies I could not refuse their request & I am persuaded [if] it is duly conducted with the approbation of the Indians & a due regard to their rights, it will answer many good purposes & prove a means of checking the attempts of the French or Spaniards tow^{ds} establishing a colony on the other side of the Mississippi which might draw off our new acquired allies & deprive us of the great benefits we may expect from the commerce with so many Nat[ion]s whilst at the same time it will tend to the Security of our Southern frontiers & enhance the public Revenues. I shall be happy Sir if my thought on this subject may coincide with Yours and I flatter myself with your pardon for the liberty I now take, as it is intended for a public benefit and proposed by men of whose Motives I can have no doubt."¹⁶

The irony of this last sentence, we may be sure, was not lost upon Doctor Franklin, who sealed the letter and mailed it, as requested, to Secretary Conway.¹⁷

¹⁵ In sending it to Governor Franklin to be forwarded to his father, Sir William, evidently fearing that if Doctor Franklin should deliver it in person to General Conway the latter might suspect that Sir William was interested in the scheme, wrote: "I should think it were better that my letter was put into the post office, but this I submit to his discretion, & hope you will write him thereon." (*Illinois Historical Collections*, XI:334.) The Doctor mailed it. (Idem.)

¹⁶ Idem.

¹⁷ Idem, 376. Franklin replied to

Sir William (Sept. 12, 1766): "I am honored with yours of the 10th of July, just come to hand with that for Mr. Secretary Conway under flying seal, which I have closed and forwarded. He is now in another Department but it will go of course to Lord Shelburne, who I think is rather more favorably disposed to such undertakings. . . . I shall not fail to use my best endeavors here in promoting it and obtaining for that purpose the necessary Grants; and I am happy that this occasion introduces me to the correspondence of a Gentleman whose character I

Doctor Franklin set about promoting the Illinois grant with great zeal and devoted much time to it. Fortunately for his object, one of the friends he had made in London was Lord Shelburne, who succeeded Conway as secretary of state and thus had supervision of colonial affairs. Says Carter:

"Shelburne was pleased with the plan, but openly confessed to Franklin that there were members of the government with whom the scheme did not find approval . . . and . . . did not at once promise his active support of the undertaking. As it was therefore useless to proceed with the plan, without the aid of Shelburne and other members of the cabinet, Franklin spent the remaining months of 1766 and a large part of 1767 in an attempt to obtain their official approval. . . . Finally, as a result of his solicitations, Franklin could report, on August 28, 1767, 'the Secretary appeared finally to be fully convinced and there remained no obstacle but the Board of Trade, which was to be brought over privately before the matter should be referred to them officially.'"¹⁸

It would be interesting to know by what methods the members of the board, who were to consider and approve or condemn the scheme, were "to be brought over privately before the matter should be referred to them officially."

In London the scheme fast grew greater. Originally contemplating only a grant to a few individuals of 1,200,000 acres, at Governor Franklin's suggestion a much larger grant was asked for the proposed colony; many others were given shares to secure their official or personal support; and the acreage applied for kept pace with the swelling number of shareholders. At first it was intended that Doctor Franklin and one or two other "Gentlemen of fortune and influence in England," whom he would name, should be taken into the company—presumably on even terms with the first promoters; but he wrote his son, saying:

"I wish you had allowed me to name more, as there will be land enough to content a great number of reasonable people, and by numbers we might increase the weight of interest here. But perhaps we shall do without."¹⁹

have long esteemed and to whom America is so much obliged. . . . With sincere and great regard, I have the honor to be Sir your most Obedient & most humble servant, B. Franklin."

¹⁸ *Great Britain and the Illinois Country*, 124-6.

¹⁹ *Illinois Historical Collections*, XI:376.

Governor Franklin evidently communicated this suggestion to his coworkers in Philadelphia, nearly all of whom were Quakers; for one of them, Thomas Wharton, soon afterwards wrote Doctor Franklin:

"It gives us great pleasure that thou approves the Illinois Scheme; altho' it was at that time thought prudent to take in two persons such as thou should approve of, yet I conceive it will by no means be disagreeable to our Company should thou enlarge the Number, *if a proportionable number of acres be granted.*"²⁰

How the scheme outgrew its original dimensions is shown by Doctor Franklin's statement that "there will be in the proposed country by my reckoning near sixty-three millions of acres." His estimate seems conservative enough, for the colony was to embrace the whole state of Illinois and large parts of Indiana, Michigan and Wisconsin.²¹ "The idea of purchasing the rights of the French seems to have been abandoned, for no suggestion of it appears in the 'proposals' " submitted to the British ministers.²²

Unluckily for the promoters, during these years there were many changes in the British ministries, and each had something like a policy of its own with reference to the western American country; but it was often vacillating and was usually controlled by the cross-pulling of politicians, land syndicates, fur companies, and others having interests to serve.²³ An irreconcilable opponent of the Illinois scheme became president of the Board of Trade for the Colonies. This was Lord Hillsborough, whose opposition, it was feared, would defeat the project. Evidently the board had not been successfully "brought over privately," as Doctor Franklin expected it would be.

While the Illinois Company promoters were pressing their scheme in London, and notwithstanding the prohibition of the royal proclamation, Virginians continued to settle west of the Alleghenies—especially along the Great and Little Kanawha and

²⁰ Idem 431; 375-6; IV *Franklin's Works*. Author's italics.

²¹ *Great Britain and the Illinois Country*, 121.

²² *Great Britain and the Illinois Country*, p. 121, note.

²³ These influences are pretty plainly shown by Alvord in his *Mis-*

issippi Valley in British Politics; yet he makes a very elaborate and inconsequential effort to disclose a consistent British policy with reference to the Mississippi Valley. His industry in collecting historic facts is much more satisfying than the conclusions he draws from them.

Monongahela rivers. In all the colonies, the boundaries of the Indian lands passed through wild and little frequented regions and were liable to be overstepped by both the white men and red —sometimes innocently, but often with lawless intent by white men, who had little respect for Indian rights, and were generally the aggressors. By 1768, in almost every colony from New York to Georgia, white settlements encroached upon lands recognized as Indian territory by both King and colony. Resulting clashes were many and they often threatened war. To avoid this, Col. John Stuart, the superintendent of Indian affairs south of the Ohio,²⁴ and Sir William Johnson, whose Northern Department lay north of that river, were informed by the Board of Trade that it designed having each of them treat for definite boundary lines with the tribes in his own district; that these lines should connect with each other; and that together they should be made “one general line of Separation between the Colonies and the Indians,” extending from Florida to Lake Ontario.

Stuart was given authority to carry out his part of this plan, and accordingly made treaty agreements with the several southern nations, establishing connecting boundary lines “between the countries of the Indians and the colonies of West Florida, East Florida, Georgia, South Carolina, North Carolina, and Virginia.”²⁵ The line in Virginia was agreed on at the Treaty of Hard-Labor (October 18, 1768) with the Cherokees, whom both the colony and King had recognized as having “Indian title” to the territory west of the Alleghenies and south of the Ohio.²⁶ This treaty was expressly approved by the King and declared by the Board of Trade to conform precisely with its instructions to Stuart.²⁷ By it the Cherokees’ eastern boundary was drawn considerably farther west than it had been, and ran southeastwardly from the mouth of the Great Kanawha to join the northern end of their boundary line in North Carolina. By this treaty the Cherokees gave up claim to lands lying eastwardly of the new line, but were sacredly guaranteed undisturbed pos-

²⁴ Stuart was a prominent and highly esteemed citizen of Charleston, where his elegant residence still stands. *Old Charleston and Its People* (Ravenel).

²⁵ *New York Colonial Documents*, VIII:160 et seq.

²⁶ Except the little part west of the Tennessee River.

²⁷ *Op. Cit.*; *Virginia Magazine of History and Biography*, XIII:21, 31.

session of those lying west of it. We shall soon see what kind of faith the King kept with them.

Land-hungry Virginia colonists were nearly always scheming to have the eastern bounds of the Indians moved farther west, in order to get grants of more of their lands. We have seen that in 1749 the Loyal Company was given a blanket grant of 800,000 acres in western Virginia.²⁸ The next year its leading spirit, Dr. Thomas Walker, made extensive explorations in Kentucky (the first ever made by a British colonist), for it was there that he wished to locate part of his company's grant. As he was not at all pleased with Stuart's new treaty line, he insisted that it should be drawn still farther west; and the Virginia House of Burgesses joined in his demand.²⁹ Colonel Stuart did not oppose the change, for he thought the Cherokees would agree to a more westerly boundary line. To get their consent, he suggested another treaty with them, and the Board of Trade recommended this to the King in Council; but before the change could be effected, a new influence arose to prevent it.

Sir William Johnson had long been urging the board to give him authority to treat with the Six Nations for a new boundary line between them and the colonies of New York and Pennsylvania in his Northern Department. Exalting the importance of his own services, he was ever inclined to magnify the power and territories of the Six Nations, and the danger of conflict with them; and now he represented strongly the need of a treaty to fix a new boundary with them in order to quiet them. The London government, however, was dilatory and gave him no authority to make one. What it later did about the Iroquois boundary, and what he did about it, will soon be told.

In London, Lord Hillsborough's opposition to the Illinois colonial grant at length became so threatening that the promoters plainly saw their scheme was doomed; but he expressed himself as not opposed to a new colony nearer the settled eastern parts of the old colonies,³⁰ and to this suggestion they were keenly receptive. They determined to abandon the Illinois scheme, and turned their eyes to the southeastern side of the Ohio, in what is

²⁸ Ante, page 44.

²⁹ *Mississippi Valley in British Politics*, II:79.

³⁰ *Franklin's Works*, IV:241, 303 (Sparks' Ed.); *Great Britain and the Illinois Country* (Carter), 136; *Illinois Historical Collections*, XI.

now West Virginia, where they planned to get a much more valuable grant than the one they found themselves unable to get in the distant Illinois. For boldness of conception, and for ingenuity and audacity of methods, this new scheme has hardly a parallel; and it makes a fundamental chapter in the history of the United States. Upon its outcome hung the destiny of Kentucky during the most critical years of her history.

The scheme, and the efforts of the promoters to further it during the initial stages in London, have been pretty thoroughly investigated and discussed with reference to *British* politics and to the policies of British ministries concerning our western country; but the far greater significance of the scheme in *American* politics, and the tremendous influence of the promoters in the Continental Congress and in western affairs during the Revolution, have never been more than very partially and superficially treated. In the next chapter an attempt will be made to give the story of the scheme up to the Revolution, and afterward its vastly important influence in American political and military affairs will receive attention.³¹

³¹ Carter, in his *Great Britain and the Illinois Country*, has quoted and referred to many of the source materials concerning the first, or Illinois, scheme. Alvord, in his *Mississippi Valley in British Politics*, has used Carter's investigations, made others himself, and has attempted to unravel the intricacies of *British* ministerial policies concerning the western country up to the Revolution. He has thrown much valuable light on the activities of the Indiana Company promoters in British politics, but does not present the infinitely more important bearings of their activities on *American* politics during the Revolution. Prior to the publication of his work, and of the tenth and eleventh volumes of the *Illinois Historical Collections* (Alvord and Carter), the author of the present volume collected a mass of source materials on the same sub-

ject, in this country and England, including some they do not publish. As most of these, however, are duplicated in those valuable and accessible publications, and as many others, not in the author's collection, appear in them, reference will be freely made to their works.

Both Hinsdale and Winsor devote considerable space to the Indiana scheme (and its interlocked fellow, the Vandalia scheme, which will be explained presently) but they disclose small acquaintance with some of the most important features. Roosevelt, who, as Alvord says, "dabbled" in western history, conveniently dismisses the whole subject of the great western land companies with the remark that a study of them is "mere waste of time." (*Winning of the West*, II: 171, note.) Evidently he wasted no time on it.

CHAPTER V

INDIANA AND VANDALIA COMPANIES

During the great Indian uprising in the West following Pontiac's Conspiracy, in 1763, the savages nearly everywhere plundered the goods of colonial traders, including Baynton, Wharton & Morgan, Croghan and Trent. Precisely when, where, and by whom they were despoiled, and how much they really lost, we know only from their claim in later years; but they charged the spoliation to the Shawnees, Delawares, and Wyandots living northwest of the Ohio. No doubt the "poor despoiled traders," as they called themselves, did sustain substantial loss, although it may be strongly suspected the amount was greatly exaggerated afterwards. They first sought reimbursement from the King.

By reason of their losses, partly due to Indian spoliation, but much more to bad investments, Baynton, Wharton & Morgan were at this time in great financial straits and sorely needed to find some way to restore their fortunes;¹ and they were men resourceful enough to find one. Although defeated in their Illinois scheme, they had formed powerful connections with men of influence in official, political and mercantile circles in London; and that influence they planned using to further their new land scheme.

The lands they selected for the grant which they now designed asking from the King, and which they called "Indiana," embraced nearly a third of the present state of West Virginia, and extended from the crest line of the Alleghenies to the Ohio, and from Pennsylvania to the Little Kanawha. It contained over five million acres and was within that part of Virginia's charter territory which had never been claimed by any other colony and Virginia's right to which the Cherokees, Shawnees, Delawares, and even the distant Iroquois had formally acknowledged.

The ground upon which the promoters rested their demand

¹ *Mississippi Valley in British Politics*, II:67.

for this coveted land was that it would be no more than a just retribution for the losses they had suffered from the Shawnees, Delawares and Wyandots; and one would naturally suppose the retribution would be asked from those Indians. Strange to say, however, it was not from them, but from the Six Nation Iroquois, that the retribution grant was demanded! The reader will readily suspect that the old British fiction of Iroquois conquest and ownership of the whole vast western country was about to be revamped by the schemers to support a pretended title which they planned to get from those Indians; and so it was.

To men of their kind it mattered nothing that the alleged Iroquois conquest was mere fiction; nor that those Indians never had even "Indian title" to an acre of the lands they were to be induced to convey; nor that such a title, even had one existed, would be no more than a mere right to occupy and use the land, and could give no ownership of the land itself; nor that the Iroquois had by treaty twice acknowledged the ownership of Virginia and had agreed to keep away from those very lands; nor that Indian conveyances to individuals were expressly forbidden by the law. All these formidable objections to their scheme they planned to avoid by legal trickery, unblushing falsehoods and wholesale bribery of men in the British government, then honeycombed with corruption. Croghan, who had recently been in London, wrote Sir William Johnson: "The people Spend their Time in nothing but Abuseing one aNother & Striving who shall be in power, with a view to Serve themselves & Thire frends, and Neglect the public."² The picture was little overdrawn, as any-one familiar with that period of English history will understand.³

In the new "Indiana" scheme Sir William Johnson was again to play an important, but carefully veiled, part. He had great influence amongst the Six Nation Indians, with whom his relations were extremely intimate, for he had been adopted into one of their tribes, and with him lived the chief's sister, Mollie Brandt, who bore him eight children. It was planned that Sir William should call a meeting of the Six Nation Iroquois at Fort Stanwix, which was convenient to their villages, and use such

² XI *Illinois Historical Collections*.

³ In March, 1769, the Board of Trade, under Hillsborough's influence, reported adversely on the Illi-

nois land grant scheme. *New York Colonial Documents*, VIII:28-31 gives the report in full.

persuasions as would lead them not only to claim ownership of the whole country west of the Virginia Alleghenies, but make a deed pretending to convey "Indiana" to the despoiled traders.⁴

As Johnson's jurisdiction as superintendent of Indian affairs in the Northern Department did not extend south of the Ohio, however, he had no authority whatever to treat for lands there with the Iroquois, or any other Indians. Indeed, he had never been able to get authority even to treat with the Iroquois for a new boundary in his own northern district; and to get that authority for him was the first step in the program of the promoters. To secure it they planned to convince Lord Shelburne that a boundary treaty with the Iroquois was necessary to prevent an Indian war; and as they knew that the British ministry always feared the expense of such a war, they skillfully played upon that fear. Alvord says:

"It was . . . somewhat of a surprise to Lord Shelburne when Benjamin Franklin forwarded to him letters from Joseph Galloway,⁵ Samuel Wharton, and George Croghan, written in collusion, in which the danger of a new Indian war was depicted in the gloomiest colors and the government urged, in order that the frontiers might be spared the horrors of another Indian uprising, to run the boundary already promised by Johnson⁶ between the Iroquois and the colonies. . . . Lord Shelburne . . . immediately invited the Philadelphia philosopher to dine with him and discuss the whole subject. . . . The danger of an Indian war seemed so threatening, and the means of preventing it so reasonable, and so in accordance with previous decisions, that Lord Shelburne was easily persuaded to include this recommendation in his western policy. . . . In accordance with this resolution, . . . on Jan. 5, 1768, Shelburne authorized Sir William Johnson to carry it out."⁷

This action was approved by the Board of Trade and the King

⁴ There were many other despoiled traders who were not taken into the scheme. In the deed and other papers describing the beneficiaries of the Indiana grant, the promoters carefully avoided showing who they were, but described themselves only as a class, and as if *all* the despoiled were embraced. Murray, Franks & Company, rivals of Baynton, Wharton & Morgan, claimed to have suf-

fered large losses by the Indians, but were excluded from participation in the retribution scheme.

⁵ Galloway was one of the original partners in the Illinois and Indiana schemes.

⁶ *New York Colonial Documents*, Vol. VIII.

⁷ *Mississippi Valley in British Politics*, I:354-5.

in Council; but Sir William was given no authority whatever to treat for a boundary *south* of the Ohio, nor to meddle with the Cherokee boundary line Stuart had established there.⁸ Despite this, it was determined that Sir William should simply usurp the authority and treat with the Iroquois for a pretended boundary grant south of the Ohio, including "Indiana." He would trust to excusing his conduct to his superiors afterwards as best he might.

Before holding an open boundary treaty meeting with the Six Nations, however, it was necessary for the purposes of the promoters to transact secretly some very important preliminary business with the chiefs.

"In order to look after their interests, Samuel Wharton and Captain William Trent, who was an associate, visited Sir William Johnson at his home in the Mohawk Valley, and then passed on to the Indian villages, where they remained several weeks persuading the Six Nations to insist on making the desired grant. . . . What methods were employed to persuade the Indians to part with a title to such a large extent of territory, is a matter of some doubt, since the story of the secret negotiations was carefully guarded."⁹

Whatever the methods of the three promoters, they were completely successful, for they secured from the chiefs a deed professing to grant "Indiana" to the traders, and another to Croghan for a large tract of land in Western Pennsylvania.

The deed professing to convey "Indiana" was a masterpiece of legal cunning. Strange as it may seem, it was not intended to be recorded, or made public, or to be disclosed to the King, or his ministers—not at least until after he could be led to acknowledge and confirm it! It was long kept locked up by Walpole, a London banker and a leading promoter, and its contents were known only by those of the inner circle. In America they misrepresented it as a completed conveyance directly to the traders, or to Trent, for himself and as attorney for the others. For lack of access to the deed or any copy of it, for over a hundred and fifty years historians have generally accepted this assertion, and have only been able to guess about the contents of this Fort Stanwix deed, but fortunately all doubt is now removed, since a full

⁸ *New York Colonial Documents*, Vol. VIII:145, 159, etc.

⁹ *Mississippi Valley in British Politics*, II:66-7, 70.

and formally certified copy has recently been found. It will appear in the appendix.¹⁰

This long lost copy discloses the fact that the deed did not purport to convey the legal title of "Indiana" to the traders, or to any of them, but to the King. In its granting clause the Six Nations chiefs "*give, grant, bargain and sell to His Majesty, his heirs and successors,*" forever, the land within the described bounds of "Indiana."

If this granting clause of the deed had gone no further (that is, if the Six Nations had really been the owners of the land) the King would have got a complete title; for the law prohibiting individuals from taking Indian conveyances did not apply to him. By having the conveyance made to the King, the traders sought to evade this prohibition; but of course they wanted the land for themselves and not for him; so their lawyer was careful to add the following decidedly important words to the clause granting the land to the King: "*for the only use, benefit and behoof*" of the traders. These added words were designed to make the King only a trustee, holding an entirely unsubstantial title for their benefit, while they would have the only substantial title, namely, the equitable one.

Had the traders relied only on this deed to give them a title, they would have gained nothing; for the King would have been sure to repudiate it and the courts certain to declare it void as

¹⁰ Realizing the great importance of this deed in the nation's history, the author endeavored for years to locate it. It was known that the original was long in London, in the keeping of the banker Walpole, who early became one of the leading promoters of the scheme. It was thought that a copy might be found amongst the papers of some of the American promoters, particularly those of the Whartons, or Sir William Johnson; but most of Johnson's were destroyed in the burning of the capital at Albany, and all efforts failed to disclose the whereabouts of either original or copy. Then sheer luck disclosed the copy. While an employe in the Virginia

State Library at Richmond was pulling out a lot of dusty old papers from a dark corner of the archives room, the author's attention was attracted by one which proved to be a beautifully written, sealed, complete exemplified copy of this Six Nation deed to "Indiana." The circumstances explaining its being there will appear presently. Thanks to the intelligent interest of Mr. R. C. Ballard Thruston, president of the Filson Club of Louisville, the document has been carefully mounted for the Virginia Library, and photostat replicas made and given by him to the Club and the author.

a fraud upon the King and a mere trick to evade the law prohibiting Indian conveyances to private individuals.

But the crafty men who engineered the "Indiana" scheme had no thought of relying wholly upon that deed. Instead, they planned to tempt the King and his ministers to overlook the fraudulent collusion between the traders and his trusted agent, Sir William Johnson, and confirm the deed; and this was to be brought about by sheer bribery. Sir William and his confederates at Fort Stanwix next got the Six Nations chiefs to grant to the King himself a vast and priceless territory of which they never owned an acre! Under pretense of fixing a new boundary with them, they were persuaded to claim and convey to the King the whole region between the Ohio and Tennessee rivers, embracing all West Virginia, Kentucky,¹¹ and the best part of Tennessee!

Although this great boundary grant included "Indiana," the traders' title to that was not to be impaired; for the deed to the King expressly provided that the boundary grant to him should not take effect unless he confirmed the previous grant of "Indiana" to them!

By seductively embracing their grant within the King's, and making his depend on his confirming theirs, they hoped he and his ministers would become blind to any irregularity in theirs; and this hope proved to be fully justified. Furthermore, the King's claim of title would make friends for that of the promoters amongst the very people whose opposition they feared, namely the Virginians; for if the King should accept the great boundary grant and offer his lands for sale on easy terms, his Indian title would win support from many Virginia purchasers, who would care less about their colony's charter rights than their own opportunity to get cheap lands, and they would defend the title of the traders to Indiana because it was based on the same pretended Iroquois ownership as the titles which they would themselves acquire from the King.

But the "poor despoiled traders" were not content with the grant of "Indiana." They planned to get for themselves, and for "such gentlemen of fortune and influence in England" as would

¹¹ Except the small area west of the Tennessee.

most effectively further their scheme, about half also of the King's great boundary grant! This was to be accomplished by a colonizing company of which they would be shareholders, and which would petition the King for a grant of all West Virginia and all of Kentucky east of the Kentucky River.¹² This great region they named "Vandalia," and the colonizing company was named "The Grand Ohio Company;" although it was usually known in America as the "Vandalia Company," and in England as the "Walpole Company," after the London banker of that name. As the limits of "Vandalia" would embrace "Indiana," the proposed grant to the colonizing company might seem to conflict with the grant to the traders; but the promoters were careful to have the Vandalia Company recognize and guarantee their title to "Indiana."

On October 24, 1768, at Fort Stanwix, Sir William Johnson held a *public* treaty meeting with the Six Nation Iroquois, at which the chiefs acknowledged their deeds conveying "Indiana" to the traders, a large tract of Pennsylvania lands to Croghan, and the great boundary grant to the King.¹³ As Sir William and his confederates were interested in making the treaty proceedings appear impressive to the London officials, and as the place of meeting was conveniently near the Iroquois villages, the pow-wow was arranged to attract a large number of the Iroquois—men, squaws, and children—a motley throng, no doubt.

The only account we have of the proceedings is Sir William's report to Lord Hillsborough, and it was most carefully framed to support the Indian deeds and to excuse Sir William's usurpation of authority in treating about a boundary south of

¹² The western boundary originally asked and running southwardly from the mouth of the Scioto, seems to have been changed. (*Mississippi Valley in British Politics*, II:83; Alden's *New Governments West of the Alleghenies*; *Colonial Documents of New York*, VIII.)

¹³ *Colonial Documents of New York*, VIII:112. The boundary line described in the deed to the King began in New York, near the east-

ern end of Lake Ontario, ran southwardly to the upper Delaware River, thence westwardly by varying courses to the Allegheny, thence down it and the Ohio to the mouth of the Tennessee and up the latter river, passing through North Alabama, to the crest line of the Alleghenies and with that line to the southern boundary of Pennsylvania. *Colonial Documents of New York*, VIII:135 gives the bounds in full, with map.

the Ohio, where he had no jurisdiction whatever.¹⁴ His report represented that 2,200 savages attended; that the proceedings were entirely orderly and fair; and that the Indians were perfectly sober. Of his preliminary and very important *private* transactions with the Indian chiefs, however, he only said that they were too numerous to be reduced to writing!

"Sir William Johnson opened the meeting with the solemn and figurative language usually employed in addressing the natives. . . . Great emphasis was laid on the fact that the King was prepared, in return for a grant of land, to give the large and handsome present which was conspicuously arranged before the assembly. Without a doubt this array of gifts had its effect on the savage mind. There was at first great opposition to granting all that Sir William demanded, particularly in the colony of New York, but, by dwelling on the subject of the presents and by means of private gifts, the objection was partially overcome. The line however was not extended to the lake at the north."¹⁵

The chiefs refused to convey northern New York lands, near their villages; but they showed no reluctance whatever to giving away distant lands of which their tribes had never owned an acre. Sir William reported that they insisted (at his suggestion, we may be very sure) that they owned the whole region between the Ohio and Tennessee, and that western tribes claiming any part of it were all conquered "subjects" and "dependents" of the Six Nations! Knowing how prone Indians always were to assert great traditional prowess for their tribes, it is not surprising that they were easily led to assert conquests and ownership of all the lands they were desired to convey to the King.¹⁶ Sir William professed to Lord Hillsborough that he did not wish or seek so extensive a boundary grant, especially of the lands outside his own jurisdiction; but he said the chiefs were

¹⁴ Their correspondence, Sir William's report, and the boundary map are in *Colonial Documents of New York*, Vol. VIII; *Documentary History of New York*, II:111, etc.

¹⁵ *Mississippi Valley in British Politics*, II:68-9.

¹⁶ It is amazing and amusing to find recent writers taking such absurd Indian boasts seriously, and referring to the most audacious as-

sertions of the promoters of this crooked land scheme as if entirely unbiased and reliable. One New York orator is so credulous about the prowess and achievements of the Six Nation Iroquois as to claim that their conquests extended to Panama! (New York and Ohio Centennial Address, *Magazine of American History*, XIX, 207.)

unwilling to consent to a new boundary unless the King would accept the whole territory embraced in their great boundary grant and would also confirm their grants to the traders and Croghan! He said he was compelled to accept the boundary grant to the King to avoid offending them!

For the great domain thus deeded, the Indians received presents which Sir William asserted were worth a little over £10,000—a price absurdly small compared with the value of the lands, but absurdly large for any title the savages could give.¹⁷

Besides Sir William, Wharton, Croghan and Trent, the Fort Stanwix pow-wow was attended by several other white men whose interests were very significant. One was Governor Franklin, who was deeply concerned in the scheme; another was Governor Penn of Pennsylvania, who wished a cession of certain lands in Western Pennsylvania, and whose presence was doubtless desired to give prestige to the proceedings. Still another was Doctor Walker, who came under Sir William's invitation to the governor of Virginia to send commissioners to attend the treaty. As we have seen, Walker was strongly opposed to Stuart's existing boundary line between Virginia and the Cherokees, claiming it was too far east and left them a region where he wished to locate his Loyal Company's land grant. Naturally he was glad to have the King receive some sort of Indian title to the lands there and make them available for his company's survey and settlement. So that was done, he probably cared little whether the King took an "Indian title" from the Cherokees, or from the Six Nations. When, therefore, he was appointed to attend the proposed treaty at Fort Stanwix, and learned that it was designed to get a cession to the King of the region his company desired, he was doubtless highly pleased.

Wharton, Johnson and their confederates had very different ideas, however. They had not invited Walker to attend their meeting in his private capacity, nor as agent for his company, but as *commissioner for Virginia*; and all they wanted of him

¹⁷ It would be interesting to know what the presents were, how much they really cost, and how much of them consisted of rum; but of these things Sir William does not tell. Rum was universally used at such treaties and was necessary in order to attract and hold the savages; and if it was not very freely supplied on this occasion, the meeting was almost without precedent in the history of Indian treaties.

was to have him witness the execution of the Six Nation deed to the King so that Virginia might *seem* to recognize those Indians as owners of the lands they were about to convey to the King. In other words, Walker's signing the deed as a witness was designed to afford written evidence that Virginia knew, acknowledged, and therefore could never afterwards deny, the claim of the Six Nations to the country south of the Ohio covered by their deed to the King. By such cunning was it planned that Virginia should unwittingly lose a vast and priceless charter territory without receiving a farthing for it!

Doctor Walker fell into the trap set for him, but afterwards

"made a declaration upon which the following charge was based:

"The whole transaction wore the face of knavery and mystery; for, although Dr. Walker was there as a public commissioner for Virginia, he was refused access to the conference; caution was used to conceal from him what they were about; and everything, until the business was finished, was conducted privately with the Indian chiefs by Sir William Johnson and the traders'."¹⁸

In truth, although Doctor Walker's presence at the meeting and witnessing the deed to the King were given studied prominence in Sir William's artful report of the proceedings, the Doctor's commission from Virginia gave him no authority whatever to approve any such grant.

Sir William made many decidedly questionable assertions to Lord Hillsborough and the Board of Trade to excuse his usurping authority to treat for lands outside his own jurisdiction, and to support the Six Nation grants; and Croghan did likewise. Writing to Hillsborough, Sir William said: "I had always understood, and had myself actually heard the Cherokees, about twenty years ago, acknowledge, that the River of their name [the Tennessee] was the extent of their pretensions."¹⁹ He even said he "found it was so understood by the colony of Virginia."²⁰ The first of these assertions no one else could well disprove, for he did

¹⁸ *Mississippi Valley in British Virginia Calendar State Papers, Politics*, II:69-70. A partial abstract of Walker's deposition describing the proceedings is given in

Vol. I.

¹⁹ *Colonial Documents of New York*, Vol. VIII.

²⁰ *Idem*.

not specify time, place, or the particular Cherokees who made the alleged acknowledgment; the second was notoriously untrue.

Sir William's report of the Fort Stanwix treaty meeting shows one Shawnee and two Delawares attending, but says that because their nations were "dependents" of the Six Nations, they were not allowed to take any part in the proceedings! It does not appear that the fellow-tribesmen of these three savages ever heard of the meeting, or ever gave them any authority to represent their tribes at the meeting; yet, from the mere *presence* of these three Indians, Sir William tried to make it appear that they represented all the Shawnees and Delawares everywhere, and that those nations not only acknowledged themselves to be conquered "dependents" of the Six Nations, but conceded the right of their Six Nation overlords to give away all their lands as a retribution to the "poor despoiled traders!" It would be interesting to know whether these three savages had any idea of the purpose for which they were being used, or thought they were invited for anything more than to receive rum and possibly some small presents.

Sir William's report should also have told what groups of Delawares and Shawnees were supposed to be represented by these three Indians; for there were two widely separated and very different branches of both these alleged "dependent" nations, but he was careful not to distinguish them. The great body of the Delawares had long before migrated to the West and lived north of the Ohio in the Muskingum Valley; but a few remained in Pennsylvania near the Iroquois; and it was only these few Pennsylvania Delawares who were ever conquered by the Iroquois. Even they, however, had been formally freed from subjugation (or in Indian parlance, "unfrocked") by the Iroquois on the eve of the French and Indian war, some fourteen years before the treaty at Fort Stanwix. Likewise, although the great body of the Shawnees lived northwest of the Ohio in the Scioto Valley, a few had wandered into Pennsylvania and been conquered by the Iroquois. Neither the Delawares nor the Shawnees of Ohio, however, were ever conquered. On the contrary, both were decidedly independent and warlike nations, allies of the French and open and very formidable enemies of the Iroquois during the French and Indian war. The idea of their being "subjects" of

those New York Iroquois was simply a preposterous invention of Sir William and his confederates.

In the appendix the critical reader may see how shrewdly the Six Nation deeds to the traders and the King, and Sir William's report, were dovetailed with one another to make out a technical legality for the pretended Indian conveyances.

As the scheme to secure the King's implied confirmation of the Indian grant of "Indiana" to the traders depended on his accepting the greater boundary grant to himself, the promoters at once set about influencing him to accept it. They held a meeting (December 30, 1768) attended by Governor Franklin, the Whartons, Morgan, Croghan, and others, and agreed to send Samuel Wharton and Trent to London to effect their purpose. For this mission Wharton proved eminently qualified, for he was a master wire-puller—plausible, shrewd, active, and little embarrassed by nice conscientious scruples. He already had influential connections in the British capital, and with the assistance of his colleagues soon made confederates of many of the most powerful politicians and officials there.

When the report of the Fort Stanwix treaty reached London, Lord Hillsborough was greatly incensed by Sir William Johnson's usurping authority to treat with the Six Nations for lands south of the Ohio, and severely reprimanded him for meddling with them.²¹ Hillsborough desired the boundary grant revised and confined to the region north of the Ohio, and so wrote Sir William, who returned an humbly apologetic reply, saying he could readily persuade the Iroquois chiefs to make the change.²²

Hillsborough and the Board of Trade evidently scented fraud in the Fort Stanwix proceedings, and on April 25, 1769, made a report to the "King in Council" recommending rejection of the boundary grant.²³ Events were happening in London, however,

²¹ Hillsborough to Johnson, January 2, 1769, *New York Colonial Documents*, VIII:144. He said the treaty would not only "produce jealousy and dissatisfaction amongst the Cherokees, but will also tend to undo, and throw into confusion, those settlements and agreements

for the other part of the boundary line, which the Superintendent for the Southern Department [Stuart] has concluded so ably and so precisely according to his instructions."

²² Johnson to Hillsborough, Feb. 14, 1769, *id.* 150.

²³ *Id.* 158 gives the report in full.

which made Lord Hillsborough's opposition of little moment; for Wharton, Trent, and their associates were busily at work there marshaling powerful influences in high political, financial, and official circles to support their scheme. They organized their colonizing "Vandalia Company," and petitioned the King to grant it nearly half—and the most valuable half—of his great Six Nation boundary grant! The region asked for included all of West Virginia and Eastern Kentucky, and was called "Vandalia," but the title of the traders to the part embraced within "Indiana" was guaranteed to them by the new company.

The methods pursued by Samuel Wharton and his confederates to secure the King's acceptance of the boundary grant, and to carry through their Vandalia scheme, are thus stated in *The Mississippi Valley in British Politics*:

"Wharton's experience had taught him that the success or failure of such a company would depend on the political forces that could be aligned in its favor, and in securing the assistance of politicians he was most successful. His letters of introduction, his financial connections, and his close friendship with Benjamin Franklin, brought Wharton in touch with three factions, the Pittites, the followers of the King, and the Grenvillites. For the building up of political influence no more experienced assistance could have been secured than Thomas Bradshaw, the political heeler of the Duke of Grafton—at the time an under-secretary of the treasury and suspected of being the true power in administration. Horace Walpole declared Bradshaw was responsible for carrying the land company through its earliest stages. It was a Pittite also who gave his name to the company. . . . This was Thomas Walpole, banker and politician. He was the second son of Horatio, Lord Walpole, and nephew of Sir Robert Walpole. Lord Camden himself [Lord High Chancellor of England], who was still a member of the administration, took shares in the company, and at every crisis was a valued adviser. Other members of this group were Richard Jackson, who was appointed in 1770 counsellor to the Board of Trade, Laughlin Macleave, and Richard Stonehewer, under-secretary of the treasury.

"Although the Philadelphia promoter was not so successful with the Grenvillites, . . . still he scored a distinct triumph when he induced George Grenville himself [soon to be prime minister] to lend his name to the speculation. . . . Two of his followers also became very prominent

in the council of the company. One was the most distinguished admirer of Grenville, Thomas Pownall [former governor of Massachusetts]. The other member of the faction, who wished to make his fortune from the sales of lands on the Ohio, was Thomas Pitt. . . . This alignment of the Grenvillites, in support of the land speculation, was to prove a stroke of fortune, when later they abandoned the cause of opposition and took their places among the administration forces [with Grenville as prime minister].

"The most prominent member of the court faction secured by Wharton's diplomacy was Lord Hertford, the brother of General Conway. His office of Lord Chamberlain gave him direct and frequent access to the King, with whom he had great influence, which, as will later appear, was exercised at a critical moment in favor of Wharton's scheme. Almost equal in importance in administrative circles to Bradshaw, was John Robinson ["The expertest wire-puller of the day,"²⁴] who, in January, 1770, when Lord North was made principal minister, became under-secretary of the treasury. He was in charge of the government's corruption fund, which he used with great dexterity in winning votes from the opposition. In this operation he was ably assisted by Grey Cooper, a joint secretary of the treasury [and also a shareholder in the Vandalia scheme]. An influential politician of the same stamp as the above was Robert Wood, . . . secretary to Lord Weymouth at the time of the formation of the land company. By winning over these under-secretaries and secretaries of the various departments to his plans, Wharton had secured skillful assistants whose opinions were of weight with their several chiefs. Moreover it is possible, as at times the sources seem to indicate, that some of these underlings were holding shares for their superiors."²⁵

For the grant of Vandalia, the holders of the seventy-two shares in the company offered to pay the King £10,460:7 shillings and 3 pence—precisely the sum that Sir William Johnson claimed he paid in presents to the Six Nations for the boundary grant. Doubtless the London members were to pay this money, not the "poor despoiled traders."²⁶

²⁴ Channing's *History of United States*, III:24.

²⁵ *Mississippi Valley in British Politics*, II:101.

²⁶ *Idem* 104. After twenty years a quit rent of half a cent an acre of "cultivable" land was to be paid—an insignificant rental, difficult to collect, and easily evaded.

On its face the company's proposal might have seemed fair enough, had not the price been so trifling—a little over one-fiftieth of one cent an acre, or 5,000 acres for a dollar! Ostensibly, the new company had nothing to do with the Indiana Company. Except to those of the inner circle, who knew of the secret transactions of Johnson, Wharton, and Trent at Fort Stanwix, and the fraudulent nature of the "Indiana" deed, or knew the crooked methods of the promoters in London, an investment in shares of the new company might have seemed legitimate; but most of the new shareholders were evidently given interests to buy either their official influence, or their personal influence with high officials. The agency of such well known corruptionists as Richard Bradshaw, John Robinson, Grey Cooper, and others, creates a strong presumption of bribery in every stage of the company's history; and this presumption is strengthened by the secretiveness of the confederates. They were very careful to prevent knowledge of their scheme reaching the Virginia government.

"The first news of the proposed colony was sent to Virginia by the agent of the colony, Edward Montague. . . . He wrote to the Committee of Correspondence that he had just learned from the Lords of the Treasury that a company had offered to purchase lands on the frontiers for the purpose of erecting a colony. He informed his correspondents that he would 'devise a suspension of the plans till notice should be sent to their government. Very great and opulent persons are combined in this attempt, and it had been conducted with so much secrecy that, until this treasury had agreed on the consideration, nobody knew of the negotiations'."²⁷

²⁷ *Mississippi Valley in British Politics*, II:105. Lord Hillsborough, having received from the Virginia House of Burgesses a memorial asking authority to treat with the Cherokees for a most westerly boundary with them, informed Walpole of it, and said that it appeared to conflict with the proposed grant to his company. "A reply to the claims of the Virginians was immediately prepared and signed by Walpole. He asserted rather ingeniously and

very untruthfully that there was no conflict between his petition and the memorial, since the boundaries of the proposed [Vandalia] colony would not 'come near the line described' by the Virginians. . . . Wharton recognized the danger to his enterprise, and, in order to propitiate those Virginians who appeared to him to have the strongest claims in the west and the greatest political influence, he persuaded Colonel Mercer to unite the interest

As the Vandalia scheme grew, so did Lord Hillsborough's opposition to it; but on the other hand, the promoters gained more and more powerful supporters.

"Very little in the political situation escaped the eyes of Samuel Wharton and his advisers. When they became conscious of the full force of Lord Hillsborough's opposition, they looked about for allies to counteract it; and naturally they approached the Court faction and the 'Bloomsbury Gang,' whose reputation was such that the speculators need fear no rebuff in offering them potential wealth. The first overtures were made to Lord Rochford, Secretary of State. . . . Rochford was 'dissolute and needy' and . . . the clever Philadelphian found no trouble . . . to induce the secretary of state to accept a share in the Grand Ohio Company. In order to be sure of sufficient influence to meet any emergency, the Earl of Gower, leader of the Bedford faction, was also persuaded to become a member. . . . Wharton showed himself remarkably talented in mustering his forces to rout the enemy. The King himself was enlisted. . . . No man was

of the old Ohio Company with the colonial scheme. . . . Still this would by no means put an end to all opposition, and Wharton realized that the earlier he could force a decision on the petition, the less opportunity Virginia would have to place her case before the administration, and therefore every effort was made to force the ministry to take some definite action." (Idem 106.)

How secret the promoters kept their scheme in London with the aid of their influential confederates in office, is indicated by the fact, that even four years after Montague notified the Virginia council that such a scheme was pending, neither he nor any other Virginians (except perhaps Mercer and any others who may have been confederated with them), seems to have been able to find out what the Vandalia Company's proposals to the King were. Even the governor of Virginia knew nothing of them, nor even the proposed bounds of Vandalia. (Dun-

more to Dartmouth, June 9, 1774, Br. Museum MSS.)

In Christopher Gist's *Journal* (p. 244) appears the following: "Copy of Agreement of May 7th, signed by Messrs. Walpole, Pownall & Wharton Consolidating the two Companies by giving the Ohio Company 2/72 and Col. Mercer 1/72.

"We the Committee of the Purchasers of the Tract of Country for a new province on 'the Ohio in America,' do admit the Ohio Company a purchaser with us for two shares of the said purchase, in Consideration of the engagement of their agent Col. Mercer to withdraw the application of said Company for a separate Grant within the limits of the said Purchase.

"Witness our hands this 7th day of May, 1770.

Thomas Walpole T. Pownall.

B. Franklin Saml. Wharton."

By the deal Mercer individually would have received some 250,000 acres. The Ohio Company, at its first meeting thereafter, repudiated the deal.

closer to the King's person, and no man was more favored by his Majesty, than the Lord Chamberlain, Lord Hertford. 'He was,' so Strahan wrote, 'very fond of the idea of having a large tract of country in America, and otherwise very attentive to the improvement of his fortune.' . . . One day at his levee, his Majesty asked Bamber Gascoigne, Hillsborough's particular friend in the Board of Trade, 'if the report upon the Ohio petition was ready.' This was a sufficient hint. The issue must be met."²⁸

Thereupon Hillsborough, for the Board of Trade, reported to the King's Privy Council against the Vandalia Company's petition, and presented many arguments to show that the proposed grant was against the King's interest, would deprive Virginia of her charter territory, and would violate the guaranteed rights of the Cherokees.²⁹ Walpole and Wharton answered his arguments, and a lengthy paper combatting them was read by Franklin. He was long supposed to have been its author, and it has even been declared his masterpiece; but it is now known to have been written by Samuel Wharton.³⁰

All such arguments before the King's Council were useless, however, for its action was foreordained, since some of its influential members secretly held large interests in the company, disliked Hillsborough, and wanted to get rid of him. Despite his opposition, the great boundary grant was accepted by the King in Council, which on August 14, 1772, gave directions for the preparation of papers granting "Vandalia" to the Grand Ohio Company.³¹ Hillsborough in disgust resigned from the ministry, and the more pliant Lord Dartmouth became his successor.³²

²⁸ *Mississippi Valley in British Politics*, II:129.

²⁹ Sparks' *Works of Franklin*, IV:303.

³⁰ Idem 324. Although ingenious, the paper abounds in false statements and is really remarkable for audacity rather than ability. The praise lavished upon it is absurd. Sparks, and other writers following him, attributed to it the Privy Council's rejection of the report, and Hillsborough's consequent resignation from the ministry. In truth, both resulted from jealousy

of Hillsborough and the personal interest of Council members or their influential friends in the Vandalia scheme.

³¹ *Documentary History of New York*, II:998.

³² August 17, 1772, Doctor Franklin wrote his son: "At length we have got rid of Lord H. and Lord Dartmouth takes his place, to the satisfaction of all friends of America. You will hear it said among you (I suppose) that the interest of the Ohio Planters [the Indiana-Vandalia promoters] has

The object of the shrewdly devised deed to "Indiana," obtained by Wharton and Trent in the wigwam of the Six Nation chiefs, seemed at last about accomplished, and by the King's grant of Vandalia the "poor, suffering traders" and many others, —secretaries, under-secretaries, British noblemen, even cabinet ministers, even a prime minister, even the Lord High Chancellor of England—seventy-two in all, had reason to believe they were to be fabulously rich proprietors of western lands. Croghan wrote: "By the best accounts I can lern, the limits of the new grant will contain thirty od millions of acrs, and the office will open att £10 sterling per hundred and a half penny per ac^r quit rent, which will make a handsome division for the 72."³³ So it would—an acreage of over four hundred thousand acres for each one of the seventy-two shareholders, costing them a trifle over 10 cents per hundred acres and considered salable for four hundred and fifty times that price!

Knowing the social customs of the time, we can imagine the convivial meetings of the jubilant inner-circle promoters at the "Crown and Anchor Tavern," or the residence of the rich banker, Walpole, and the pleasantries that passed over their sherry and champagne, as they recounted the dangers their daring scheme

ousted him, but the truth is, what I wrote you long since, that all his brother ministers dislike him extremely, & wished for a fair occasion of tripping up his heels; so, seeing that he made a point of defeating our scheme, they made another of supporting it on purpose to mortify him, which they knew his pride could not bear. . . . The King too was tired of him and his administration, which had weakened the affection of the colonies for a royal government with which (I may say it to you) I used proper means from time to time that his Majesty should have convincing proofs. More of this when I see you. The King's dislike made the others more firmly united in the

resolution of disgracing H. by setting at naught his famous report. But now the business is done, perhaps our affair may be less regarded in the cabinet and suffered to linger and possibly may yet miscarry. Therefore let us beware of every word and action that may betray a confidence in its success, lest we render ourselves ridiculous in case of disappointment. We are now pressing for a completion of the business, but the time is unfavourable, everybody gone or going to the country, which gives room for accidents." (*Private Correspondence of B. Franklin*, V:410.

³³ *Mississippi Valley in British Politics*, II:152.

had avoided, and the success of their wire-pulling exploits. But they were to find "many a slip 'twixt cup and lip."

While Croghan, and no doubt all the rest of "the 72," were figuring profits, others who had rendered service in procuring government approval of the scheme were claiming some shares in it. Numerous officers were to be created for the new colony—a governor, chief justice, two assistant justices, an attorney-general, an assembly clerk, and two preachers. Salaries were to be provided for them, and the question arose, who was to pay them—the King or the proprietors? Neither wished to pay them. The solution of these and many other petty problems caused conflict and fatal delays, the result of which was that the Vandalia colonial charter grant had not been made, or finally approved by the King, when the American Revolution broke out and made further application to him futile. The Revolution transferred all controversies over our western lands from England to America; from the King in Council to the Continental Congress. The promoters hoped they could influence Congress to seize the whole trans-Allegheny region for all the states, and confirm their pretended titles to "Indiana" and "Vandalia."

With much of the tangle of political maneuvering and official corruption making up the history of the allied Indiana and Vandalia schemes in British politics we are not specially concerned; but what has been said of the schemes and schemers up to this time does intimately concern our subject, for it bares the motives and methods of the American promoters who, by methods no less sinister, were to carry on in the Continental Congress, and in the western country, a struggle for their fraudulent land claims involving mighty consequences for the American people, and particularly those of West Virginia and Kentucky.

The deed which Samuel Wharton and William Trent secretly got from the Six Nation chiefs, two days before the open pow-wow at Fort Stanwix, was one of the most vital documents in American history, for it gave rise to the most momentous of all the great controversies which arose between the states during the Revolution. For six years the efforts of the promoters to secure recognition for that deed delayed the adoption of any Articles of Confederation and almost defeated the cause of independence. They led to interminable and disastrous dissensions in the West, particularly in Kentucky; they blocked at every turn, and almost

lost, our western war to win the Revolutionary West; they brought sore distress to nearly all the western people and ruin to many of the most useful and patriotic of them.

Yet, "'Tis an ill wind that blows no good." As if designed by a beneficent Providence to change evil into good, this same fraudulently procured Indian deed led to making a great Federal domain of the Northwest Territory, which, as already said, saved the nation from bankruptcy and gave the thirteen states a bond of union which made possible the adoption of our Federal Constitution.

PART TWO

KENTUCKY BEFORE THE REVOLUTION

CHAPTER VI

EXPLORATION AND ATTEMPTED SETTLEMENT

Tracing the political maneuverings of the powerful land companies has led us to the outbreak of the American Revolution; but before treating of Kentucky's part in that conflict, it will be well to consider briefly the progress of border settlement and the character of the border people during the years preceding the Revolution. This inquiry is particularly necessary with reference to Virginia's frontier people, for they played the leading part in winning the Revolutionary West, and it was from them that the largest and dominant part of Kentucky's early population came.

During the pre-Revolutionary period, the great Valley of Virginia, between the Blue Ridge and Alleghenies, was far the most inviting region in America for frontier settlement; for it was extremely fertile, was accessible from eastern Virginia, Maryland, and Pennsylvania, and was free from troublesome Indians. It contained a stretch of some three hundred miles of beautiful rolling lands, from its highest part gradually descending north-eastwardly about two hundred miles along the Valley of the Shenandoah to the Potomac, and southwestwardly about half that distance along the Valley of the Holston to western North Carolina—now northeastern Tennessee. There the Holston is joined by the Watauga, a little mountain stream, and after a further course of about a hundred miles, enters the Tennessee River, near Knoxville.

The Valley of Virginia was not only accessible from the east by various trails crossing the Blue Ridge, but also from Maryland and Pennsylvania, where the range broke into foothills. Its first

considerable settlement was not made by Virginians, but by Dutch and German colonists, led by Jost Heydt—a name soon anglicized in America as Hite. It seems that during religious and political troubles in Holland, the Heydts, Van Meterens, and other inter-married Protestant Dutch families took refuge in Alsace, and thence emigrated to New York and Pennsylvania. In 1730 John and Isaac Van Meteren secured from Governor Gooch of Virginia a patent for 40,000 acres of land to be located in the northern part of the Shenandoah Valley, and next year sold the patent to Jost Hite.¹ In 1732 Hite brought his own and sixteen other families and settled them on his lands a few miles south of the present site of Winchester.² This has been considered the first, as it was certainly the chief, of the early white settlements west of the Virginia Blue Ridge.³

Amongst Hite's descendants who played conspicuous parts in Kentucky history during the Revolution were Abraham and Isaac Hite, John Bowman, who was Kentucky's first county lieutenant, and his brother, Joseph Bowman, who became next in command under George Rogers Clark in the conquest of the British posts north of the Ohio.

Soon after Hite's pioneer settlement, many Virginians acquired grants of land in the valley and made settlements there. In 1736, 118,091 acres, known as the "Manor of Beverly," and soon afterwards 500,000 more—both lying southwestwardly of Hite's land—were patented to William Beverly and Benjamin Borden respectively.⁴ They and Hite then actively solicited settlers both from America and Europe. Borden, it is said, "visited England and in 1737 returned with a hundred families," sons from which later won great distinction in Kentucky history.⁵ Others followed from eastern Virginia and also from Maryland and Pennsylvania; so that, even before the outbreak of the French and Indian war (1754), there were "clearings" and pioneer homes widely scattered from end to end of the great valley. During the twelve years intervening between that war and the Revolution the number of immigrants in the valley increased considerably, and some of them penetrated the Alleghenies and settled along

¹ *Virginia Magazine of History and Biography*, XIII:115-18, 283.

³ Id.

² Kercheval's *Valley of Virginia*, 45, 64.

⁴ Summers' *History of Southwestern Virginia*, 41-2.

⁵ Id.

the lines of the Kanawha, Monongahela, and other upper tributaries of the Ohio.

Several causes combined to make the Virginians the pioneers in the settlement and winning of the trans-Allegheny wilderness during the eighteenth century. One was their comparative nearness, and their colony's charter title to the most accessible and desirable part of it; another was the absence of Indian inhabitants south of the Ohio. A third cause was the intense individualism of the Virginian pioneer people and their peculiar adaptability for frontier life and warfare. They were oftenest farmers and stock raisers accustomed to living far from any neighbors, and not averse to moving farther into the wilds for more and richer lands. In this they differed much from the New England people, who inclined to live closer to one another, adhered to the Puritan township-method of granting lands, and usually migrated in groups and settled in communities.

These differences in great measure explain the fact that the pioneers who settled west of the Alleghenies and fought for the country were almost exclusively from Virginia, North Carolina and southwestern Pennsylvania, which latter region was, until the outbreak of the Revolution, claimed and governed by Virginia, and mainly inhabited by Virginians. The people of New England and New York took little part in winning the Revolutionary West; nor did they settle there until after it had been won by Virginia and settlement had been made fairly safe.

A large part of the settlers in the Valley of Virginia were Scotch and Scotch-Irish Presbyterians whom religious persecution had driven from the old country. They were of a strong-fibred, individualistic, militant race, intensely religious and resolute for freedom. Reading the Bible themselves, and teaching their children to read it, they deemed essential to salvation; and certainly there was no better educator in good English. The result was that amongst the Scotch-Irish in the wilds of Virginia there were few who did not read and write fairly well; and, judging from their letters, they seem to have had a considerably higher average of education than most other frontier peoples—higher, perhaps, than was usual among the seaboard colonists. Of the early Kentucky leaders of Scotch-Irish stock from the pre-Revolutionary frontier of Virginia—most of them hailing from the upper valleys of the Shenandoah, Holston and Clinch

rivers—may be mentioned Colonels Samuel McDowell, John Floyd, John Montgomery, Benjamin Logan, William Christian, John Todd, Levi Todd and Robert Johnston and judges Caleb Wallace, Harry Innes, John Boyle and Jesse Bledsoe; and the list could be made much longer.

Until shortly before the Revolution, few and widely scattered British colonists lived west of the Alleghenies, and they mainly in the Monongahela region. In 1775 the largest settlement, Pittsburgh, was but a crude little town with some thirty log houses.⁶ Wheeling was a very small village. Scattered in the bottom lands of West Virginia, along several streams flowing from the Alleghenies into the Ohio, were some other small settlements and homes. In southwestern Virginia, on the eastern side of the Alleghenies, the settlements were also small and far apart, but considerably more numerous, and in the aggregate the population was much larger. Along the Holston and Clinch were many such small gatherings, collectively called "The Holston," and by the Kentucky pioneers oftenest termed "The Settlement." Still farther west, on the waters of Clinch River in Powell's Valley, in what is now the extreme southwestern point of Virginia, were less populous settlements which, however, in 1777 "could muster nearly a thousand men."⁷

For ages Kentucky had been the favorite hunting ground of the many Indians living north of the Ohio and south of the Tennessee. It was well called the "Dark and Bloody Ground," for it was often their fighting ground also. Being uninhabited,⁸ it afforded an entering wedge for pioneer settlements separating these northern and southern Indians—a fact of very great importance during the Revolutionary war, for it exposed the towns

⁶ *Journal of Nicholas Cresswell* (Dial Press, 1924), p. 65.

⁷ Thwaites & Kellogg's *Dunmore's War*, p. 4.

⁸ That it was uninhabited when, and long before, the first white settlements were made, seems reasonably certain, notwithstanding references by early white visitors to several Indian "towns" in Kentucky. These all seem to have been tempo-

rary. Indians were frequently rovers and their "towns" were quite movable. Thus when a town on the north bank of the Ohio was flooded, they moved their wigwams to the Kentucky side. One of their so-called towns mentioned as in the Bluegrass country in one year, but later found abandoned, was probably used only for hunting purposes.

of the savages to flank attack from Kentucky if they dared leave them to fall upon the Virginia, Pennsylvania or Carolina frontiers.

Long before British colonists explored Kentucky, parts of it, especially near the Ohio, Green, Cumberland and Tennessee rivers, were no doubt visited by French fur-traders and hunters from Vincennes and the Illinois towns.⁹ The first British colonist who appears to have made a real exploration of Kentucky was Dr. Thomas Walker, already mentioned. In 1750, with a view to locating lands for his Loyal Company, he led a small party through a considerable section of its eastern part, discovered and named the Cumberland Mountains, Cumberland Gap, and Cumberland River; and in 1758 made a second tour extending, it is said, into the Bluegrass region. He left a journal of his explorations which gives an interesting description of the parts of Kentucky that he visited.¹⁰ On his first journey he was accompanied by Ambrose Powell, William Tomlinson, Colby Chew, Henry Lawless, and John Hughes. Mr. William Ayres, in his *Historical Sketches*,¹¹ says Lawless accompanied "Gen. Andrew Lewis on the expedition down the Big Sandy River in 1756," and was killed by the Indians the next year.

"Colby Chew became a lieutenant in the colonial troops during the French and Indian war and was killed during that conflict. . . . William Tomlinson in later years moved to Central Kentucky and settled at Bryant's Station. . . .

⁹ But see C. W. Alvord in his *First Explorations of the Trans-Allegheny Region by the Virginians, 1650-1674*.

Although of little or no historic significance, the mere priority of entrance into Kentucky of some British colonist who went there as trapper, prisoner, trader, or what not, seems to have been a subject of curious interest to some writers. About it many vague but inconsequential data have been laboriously gathered and published. (e. g. id. and Alvord in *Journal Illinois State Historical Society*, XIX:16, "The Daniel Boone Myth.") Even more

uncertain is the information these early visitors carried to the east about what they saw in Kentucky.

¹⁰ *Journal of Exploration . . . in 1750*, by Dr. Thomas Walker (Boston, 1888, Little, Brown & Co.); same (J. Stoddard Johnson's edition), *Filson Club Publications No. 13*.

¹¹ Mr. Ayres gives many particulars about Doctor Walker's high character and remarkable life in his excellent book, which was, however, so badly printed that he withdrew it from circulation. It is to be hoped that a new edition will be issued.

Ambrose Powell was a surveyor and a prominent citizen of Culpeper County, Va. . . . A son of the same name . . . was an officer in the Revolutionary Army. He was the great-grandfather of Gen. Ambrose Powell Hill, of the Confederate Army. . . . Powell's Mountain, Powell's River, and Powell's Valley, in Virginia, were named in honor of Ambrose Powell. . . . Some of his descendants became well known citizens of Boyle and Mercer counties, in Kentucky. Thomas Walker was born on January 25, 1715 . . . in King and Queen County, Virginia, and died on November 9, 1794, at his home, 'Castle Hill,' in Albemarle County."

Walker attended William and Mary College and became a noted physician. His home in Albemarle was near that of Thomas Jefferson's father, Peter Jefferson, who made him executor of his will and the guardian of Thomas, whose education he supervised. After Walker's explorations, parts of Kentucky were visited by Christopher Gist, John Finley, George Croghan, James McBride, and others. Croghan saw only the part adjacent to the Ohio. After them, and nineteen years after Walker's first visit, Daniel Boone entered Kentucky for the first time on one of his hunting trips.

So much has been written about Boone that little need be said of him unless to correct what has been said; for, like Lincoln, the crude but strong and interesting features of the real man have been so altered and idealized in pen portraits that one must go to the unerring records of his time to learn what manner of man the real Daniel Boone was.¹² His "autobiography," published in 1784 in Filson's little book called a history of Kentucky, was certainly not written by Boone himself—for he was incapable of such writing—but by Filson, who, following the custom of writers of his time, made Boone's career as romantic and heroic as he could.

A persistent popular belief long attributed to Boone the first exploration and settlement of Kentucky and the leadership of its pioneers in warfare during the Revolution. In truth, many explorers had preceded him and, although he was unexcelled as a hunter and woodsman and was both brave and skillful in small-

¹² On this subject see C. W. Alvord's "The Daniel Boone Myth," *Journal Illinois Historical Society*, XIX:16.

scale encounters with Indians, he never held other than secondary or lower military position, and took no part either in planning or executing any important military movement.

The real Boone was a very remarkable and admirable man, unique of his kind. Although of limited mentality and information, within his narrow sphere of thought and action he had hardly a rival. His calm courage in danger never failed him. With a passion for the wild, he found contentment only in the wilderness; and with almost every phase of that he was perhaps more familiar than any other white man of his time. He threaded the tangled mountains and primeval forest as unerringly as an Indian; and read the cunning savage mind with rare keenness. With white men whom he trusted he was confiding and guileless as a child; but with known enemies he became another man—alert, wary, and shrewd. When necessary to save himself or others, he was a very adroit actor and did not hesitate to deceive enemies by untruths. This has led some writers to question his rectitude, but most unjustly. In war, even between civilized nations, deception of that kind is both practiced and taught by military leaders of high repute—we are told it is taught at West Point today; but Boone warred with utterly faithless and cruel savages. A very different estimate of him was made by one of his contemporaries who knew him well and was himself a man of noble character. This was Col. Thomas Hart, who, when Boone lost some land-entry monies committed to his care, and was charged with appropriating them, wrote:

“I observe what you say respecting our losses by Daniel Boone. I had heard of the misfortune soon after it happened, but not of my being a partaker before now. I feel for the poor people who perhaps are to lose even their pre-emp-tions; but I must say, I feel more for Boone, whose character, I am told, suffers by it. Much degenerated must the people of this age be, when amongst them are to be found men to censure and blast the reputation of a person as just and upright, and in whose breast is a seat of virtue too pure to admit of a thought so base and dishonorable. I have known Boone in times of old, when poverty and distress had him fast by the hand; and in those wretched circumstances, I have ever found him of a noble and generous soul, despising every thing mean; and therefore, I will freely grant him

a discharge for whatever sums of mine he might have been possessed of at the time."¹³

It is doubtful which was the more honored by this fine tribute—Boone, or the writer of it.

1772 was a year of very active movement of explorers and surveyors to the upper Ohio Valley. Most of the Virginian settlers made their homes along the Monongahela, the Little and Great Kanawha rivers to the north, and along the Holston, Watauga and Clinch rivers farther south, while some settled in the bottom lands on the southeast side of the Ohio itself, in what is now West Virginia. Capt. Thomas Bullitt led a small surveying party down the Ohio as far as the Falls. There he surveyed for Dr. John Connolly, Col. John Campbell, and others, a considerable part of the land within the present limits of Louisville.

Another surveyor, who this year visited the wilderness of the upper Ohio, was destined to become "the founder" of the commonwealth of Kentucky—George Rogers Clark, then a tall, slender youth of nineteen, son of a Virginia planter of Caroline County. About all that we know of this visit is from the journal of the Rev. David Jones, afterward chaplain in Washington's army. The journal shows how few were the settlements on the upper Ohio at that time. It says:

"I left Fort Pitt on Tuesday, June 9, 1772, in company with George Rogers Clark, a young gentleman from Virginia, who with several others inclined to make a tour in this new world. We traveled by water in a canoe, and as I labored none, I had an opportunity of making my remarks on the many creeks which empty into the Ohio, as also the courses of the said river. [Arrived opposite Mingo Town] where some of that nation reside; but as they have a name of plundering canoes, we passed them quietly as possible, and were so happy as not to be discovered by any of them. . . . Here [at Grave Creek] I met my interpreter, who came across the country from the waters of the Monongahela, and with some Indians, with whom I conversed. It was in the night when we came; instead of feathers my bed was gravel stones, by the river side. From Fort Pitt to this place we were only in one place where white people live.

¹³ Perkins' *Western Annals*, p. 136 n.

Our lodging was on the banks of the river, which at first seemed not to suit me, but afterwards it became more natural. [They continued to and up the Kanawha and then] Tuesday, July 14, Set out for Fort Pitt on horseback in company with Mr. Clark, Mr. Higgins and Mr. Owens, my interpreter; but as it was some time before the Indians could be at Fort Pitt, we took another tour down to Ohio across the waste wilderness, and on the Sabbath I preached to about fifteen white people, who met in a cabin near a creek called Wheeling.

"Monday, July 20. Set out for Fort Pitt. . . . Parted from my friends here and reached home on the 20th day of August."¹⁴

The next year, 1773, young Clark returned to the wilderness and settled "on a bottom of fine land" on the Ohio at Grave Creek, about forty miles below Wheeling.¹⁵ How far settlers were then pushing into the rich lands by that river appears from one of his letters saying people were "settling as low as ye Scioto, 366 miles below Fort Pitt," and that land was "almost as dear here as below," meaning east of the Blue Ridge.¹⁶ People in the east, especially Virginians, were looking to the rich western wilderness for homes or fortunes. Those who had means often got others to locate and survey western lands for them; but most of those who went west themselves took such tracts as they liked—often without much care to learn whether others had prior claims—erected cabins and planted corn to get rights to the lands under the Virginia laws.

The next year (1774), the British Parliament passed the famous "*Quebec Act*," which purported to annex the whole region north of the Ohio to the Province of Quebec. The power of Parliament to do this was denied in the colonies, inasmuch as that region was embraced within Virginia's charter grant and parts of it covered by claims of other colonies. The act, however, was mainly resented by the colonists because, as the Declaration of Independence two years later stated, the King had imposed on Quebec an arbitrary government, and by the act was "Enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule in these colonies."

¹⁴ English's *Conquest of the Northwest*, 60.

¹⁶ *Draper MSS.*, 1 L 9. (George Rogers Clark to Jonathan Clark.)

¹⁵ *Draper MSS.*, 1 L 8. (Roy to Jonathan Clark.)

1774 was a year of outstanding importance in the history of Kentucky; for it was then that the first attempt was made to found a settlement there. Amongst the men who had been members of Bullitt's party surveying lands along the Ohio two years before was James Harrod. He then learned of the rich Bluegrass region of central Kentucky and determined to settle there. On his return to the Monongahela region he gathered a party of about fifty frontiersmen and, in the spring of 1774, went down the Ohio and up the Kentucky to a point afterward called Harrod's Landing, and thence a short distance overland to the head of Dicks River. There they laid out lots and began building log cabins for a town which they called Harrodsburg.

Their work was rudely interrupted, however, for the Shawnees and other Indian tribes north of the Ohio were in an angry mood and war with them soon broke out. They looked with growing apprehension upon the white invasion of their old hunting grounds across the river, and feared their home lands north of it would soon be wrested from them. "Cresaps war" and "McDonald's Expedition"¹⁷ against the Shawnees followed—both comparatively unimportant preliminaries to Dunmore's War. The western movement of settlers and surveying at once stopped; the settlers along the Ohio hurriedly left for Monongahela. There also "the panic became contagious. There was a rapid retreat across the Monongahela—more than a thousand are said to have passed over in one day."¹⁸

The Indian warfare to which the western border people were exposed has elsewhere been described by the writer as follows:

"It was not only dreadful in its cruelty, but probably the most effective ever waged by equal bodies of uncivilized men. The Indian was a born warrior; his ambition centered in war; his standing in his tribe, his winning of his bride, his own self-esteem, and even, he believed, his reception after death by his departed ancestors depended upon his prowess in war. The proudest adornment he could wear was a string of the bloody scalps of enemies of his tribe; and the scalp of a helpless old man, or of a woman, or child, was counted as well as that of an able-bodied man. Crafty, inured to hard-

¹⁷ So called from its leader, Col. Angus McDonald, many of whose descendants have been residents, and some of them prominent ones, of Kentucky.

¹⁸ Thwaites & Kellogg's *Revolution on the Upper Ohio*, p. 13.

ship, rapid and tireless travellers, requiring little food and trusting to find that on their way, the Indians were masters of the arts of woodcraft, hiding and stealthy attack. They preferred to divide their forces and go to war in small bands. Striking where the enemy was weakest and most damage could be done, they would vanish before any formidable foe, and often, in an incredibly short time, reappear at a distance to carry havoc to a new settlement. A single small band would thus seem to be in half a dozen places at nearly the same time, and would spread terror, even amongst the sturdy frontier people, over miles of country; and everywhere they went they left their bloody trail of scalped and mutilated bodies and burned homes, and carried away their helpless captives for slavery or merciless torture.

"White men were usually more or less bewildered in the tangled forest, but the Indians were as much at home there as any wild animal. In the wooded country where they usually fought, they were, man for man, far more than a match in battle for any but the most skillful pioneers. They kept in touch with their comrades, passed signals, and preserved a long and rapidly changing battle line with great skill. Yet they labored under several disadvantages. In marksmanship they were inferior to experienced pioneers, for their guns were oftenest poor, while, to save their powder supply, they rarely engaged in target practice, and also undercharged their rifles, thus reducing both range and accuracy of fire. Their most serious shortcomings as warriors, however, were lack of subordination and perseverance; owing to which many well planned raids would be abandoned and victories lost that they might certainly have won. Their aversion to pitched battles was a very reasonable one, for they knew they were greatly outnumbered by the whites and could not afford to lose men. Because of this, and because they sought to attack the weak and not the strong, and would frequently retire before enemies much inferior to themselves in number, especially if entrenched, many have thought they lacked steady courage; but never was a greater mistake. They simply joined caution to bravery.

"Lacking a commissariat, the Indians rarely made long sieges, for they could not depend for food on the game about a beleagured fort, since it was usually scarce before their arrival and certain to vanish when they appeared. It was this lack of food, rather than the guns of the whites, which oftenest compelled besieging Indians to retire and saved the garrison. When, however, several hundred savages would attack a fort containing not a tenth of their own number of

fighting men and, failing to take it promptly, would retire, the white defenders were apt to think highly of their own prowess and belittle that of their foes.

"Because the Indians loved the sport and plunder of offensive war and planned to strike only a weaker enemy, they were usually ready to be led on forays, however distant, if they felt that their homes were left safe. It was there that they were vulnerable, for they dreaded to leave their wives, children and old people, and their food crops, liable to destruction by an enemy. While a foe was within striking distance of their towns they could seldom be induced to go far from them. . . .

"Although all used firearms during the Revolution, some were much better equipped than others. Thus the northwestern Indians were usually well supplied from the many British posts near them; those near the Mississippi trade routes were also; but the Cherokees and Creeks, being far removed from their white allies, were very ill-supplied. This, far more than any inferiority in warlike qualities, explains the fact that, excepting the Chickasaws living by the Mississippi, the southern Indians carried on a much less vigorous warfare during the Revolution than the tribes north of the Ohio."¹⁹

The main event of Dunmore's War was the battle of Point Pleasant on the point of land made by the junction of the Ohio and Great Kanawha. Here some eleven hundred Virginia frontiersmen, under Gen. Andrew Lewis, encamped on their way to join Lord Dunmore, who was marching another army by a more northerly route against the Shawnee towns on the Scioto River in Ohio. Lewis and his men evidently had little thought of Indian attack; but during the night of October 9th Cornstalk, the very able Shawnee chief, with a considerably smaller force, crossed the Ohio and formed a battle line from river to river, about a mile from the camp of the whites. By a clever ruse, early next morning he succeeded in drawing out of the camp some three hundred of the Virginians, and fell upon them with deadly result. Within a few minutes two commanding colonels were killed, a third wounded, and many other officers and men killed or wounded. Reinforcements arriving from the camp, the

¹⁹ *George Rogers Clark: His Life and Public Services*, 10 (Houghton Mifflin Co.).

battle became general and lasted until near night, when the Indians withdrew across the Ohio, leaving no dead on the field.²⁰ About forty-six Virginians were reported killed and eighty wounded, some of whom afterwards died. The casualties of the Indians are uncertain, but were probably very few.

This battle was long heralded as a great victory for the whites, but in fact they were evidently outgeneraled and nearly crushed by a much inferior force. The battle, however, rendered a great service to the westward-moving colonists, for it convinced the savages that they were unable to stop the white tide, and for a time quieted them. Cornstalk, having failed to destroy one army, thought it unwise to fight two, and therefore counseled his nation to make peace; and this they did. By treaty they again surrendered all claim to lands south of the Ohio and promised not to go there.²¹

Many of Kentucky's early settlers and soldiers were men from the armies of General Lewis and Lord Dunmore. Amongst the more noted were James Harrod and his brother William, who was to win distinction as a captain in the campaign against the British north of the Ohio; Isaac Shelby, twice governor of Kentucky; Stephen Trigg, who was colonel of militia and killed in battle at the Blue Licks; and John Floyd, one of the noblest and most charming of the real heroes of Kentucky.

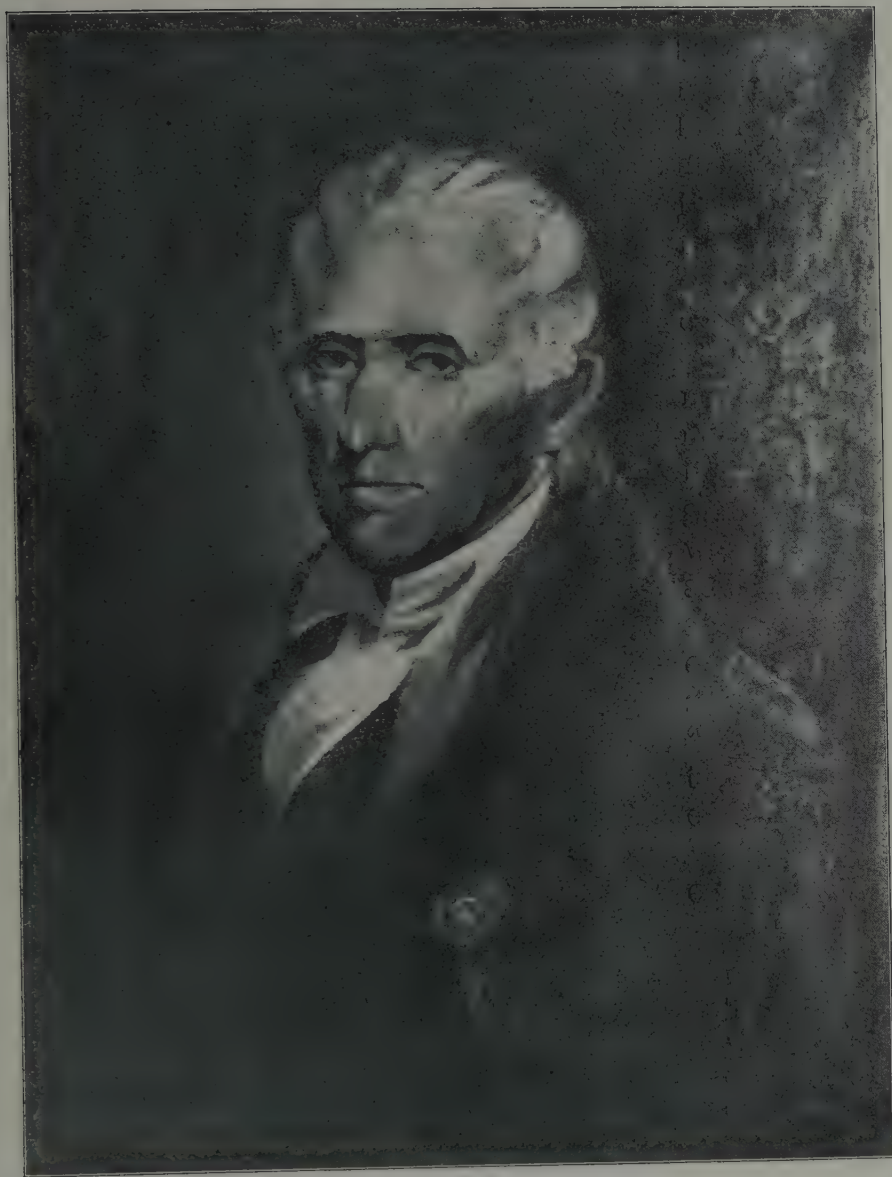
²⁰ For details see varying reports in *Dunmore's War*, 253-344. That of Floyd (p. 266), was probably the most reliable.

²¹ Cornstalk himself was one of the hostages securing this treaty, but he soon escaped. Draper says he gave proofs of his desire to maintain peace with the Americans during the Revolution, and went to Pittsburgh as a mediator, but was killed there by lawless Americans.

Dunmore became cordially hated during the Revolution and was absurdly charged with intentionally bringing on the war. The letters and official reports of the time clearly show that the war naturally

grew out of Indian fear of white encroachments, dissensions of the Pennsylvanians and Virginians in the Pittsburgh district, the high-handed conduct of Dunmore's agent there, Doctor Connolly, and (less obviously) the opposition of the promoters of the Indiana and Vandalia companies to Virginian jurisdiction and settlement west of the Alleghenies.

Dunmore's treaty with the Indians did no more than have them confirm their former treaties and promises not to go south of the Ohio. They neither ceded, nor were asked to cede, lands north of the river.



(Filson Club's Copy of Chester Harding's Portrait from Life)

DANIEL BOONE
(1735-1820)

CHAPTER VII

HARRODSBURG AND TRANSYLVANIA

Indian hostilities having subsided, the western movement of settlers became more active than ever. In the spring of 1775 James Harrod re-formed his party of the year before and with about fifty men returned to Harrodsburg. They completed the construction of their abandoned cabins, erected a rough log fort enclosing them, and established there the first permanent settlement in Kentucky. Soon others followed, most of them entering by way of the famous mountain pass, the Cumberland Gap, situated at the junction of the present state lines of Virginia, Kentucky and Tennessee. They found the southeastern part of Kentucky broken by many densely forested mountains, which gradually diminished in height toward the west and faded into the gently rolling Bluegrass plateau. Here the settlers found a region of almost unrivaled fertility and beauty, with limestone lands covered by a noble forest of walnut, ash, tulip-poplar, and other giant trees. Generally the woods were exceptionally free from dense undergrowth, and in many places were carpeted with luxuriant bluegrass, while elsewhere were thick canebrakes, affording valuable winter forage. In the southeastern mountains were the headwaters of six navigable and beautiful rivers traversing Kentucky and flowing into the Ohio—the Big Sandy, Licking, Kentucky, Salt, Green and Cumberland. Along all these streams were rich bottom lands and, especially in the Bluegrass region, fertile rolling uplands.

The Harrodsburg settlers assumed that Virginia owned Kentucky and that they would get valid titles under her land laws. As we have seen, however, others besides Virginia claimed Kentucky. The King claimed it; the Vandalia Company claimed all of it east of the Kentucky River; and the states north of Virginia were about to claim it, and a vast additional western region, as the common property of all the states. Still another claimant

appeared at this time. This was a syndicate of North Carolina men, headed by Col. Richard Henderson and commonly known as Henderson and Company. They claimed all of Kentucky and Tennessee lying between the Kentucky and Cumberland rivers, under a grant from the Cherokee Indians, and named the region "Transylvania." As we have seen, however, an Indian title to land was no more than a mere right of occupancy; and even that limited right could be lawfully acquired from the savages only by the sovereign.

In March, 1775, Henderson and some of his associates met a number of Cherokees at the Sycamore Shoals of the Watauga River, and obtained from them a deed professing to grant the broad domain of Transylvania.¹ Having secured the grant, Henderson and Company employed Boone to secure axemen and clear a packhorse trail (now famed as the "Wilderness Road") from the Holston Valley through Cumberland Gap to a point on the south side of the Kentucky River in what is now Madison County, and there lay off town lots and erect a log fort.² This was done, and the town called "Boonesboro."

Soon afterward, Colonel Henderson followed Boone to set up a proprietary government over Transylvania. The Colonel was an interesting and worthy man, albeit amusingly pompous. Born in Virginia, he had been carried when an infant to North Carolina, where he rose to be an associate judge of the Superior Court. Fortunately he left a most interesting journal of his experiences during what he calls his "Expedition to Caintuckey." It gives by far the best account we have of conditions and people there at that early time, and for that reason extracts from it will be given freely here, with occasional comments:

"March 20, 1775. Having finished my treaty with the Indians at Wataugah, set out for Louisa—[a name sometimes given the Kentucky River]. . . .

"April 7th. . . . Five persons killed on this road to Cantuckee by Indians, and Capt. Hart, upon receipt of this

¹ A descendant of Colonel Henderson gives a highly colored and imaginary description of the meeting. (Henderson's *Conquest of the Old Southwest*, 221-6.)

² Collins' *Kentucky*, I:18, gives the names of some of Boone's com-

panions as follows: Capt. William Twetty, Samuel Coburn, James Bridges, Thomas Johnson, John Hart, William Hicks, James Peeke, Felix Walker, Squire Boone, Col. Richard Callaway, and John Kennedy.

news, Retreated back with company & determined to settle in the valley to make corn for the Cantuckey people. . . . The same day Received word from Daⁿ Boone that his Company was fired uppon by Indians. Killed two of his men, tho he kept the ground & saved the baggage. . . .

"18th Camp^t . . . in the eye of the rich land.

"20th Arrived at Fort Boone, . . . Kentucky River, where we were Saluted by a running Fire of about 25 guns, all that was then at fort.

"Saturday 22nd. Finished running off all the lots we could, . . . to wit 54,—gave notice of our intention of having them drawn for in the evening, but as Mr. Robt. McAfee, his brother, Saml. & some more were not satisfied whether they would draw or not, wanting to go down the river abt 50 miles near Capt. Harrods settle^{mt}, where they had begun improvements and left them on the late alarm, &c, and being informed by myself, in hearing of all attending, that such settle^{mts} should not entitle them to lands &c from us, and appearing concerned and at a loss what to do—on which the lottery was deferred til next morn^g sunrise, thereby giving them time to come to a resolution.

"Sunday. 23. draw'd lots &c Spent the day without public worship.

"Monday 24. Employ'd in viewing the respective lots and endeavoring to satisfie the drawers by exchanging my own and those over whom, of our company, I had influence, to give entire satisfaction. [Evidently there was dissension among the settlers about their lots, and for nine days more the Colonel was engaged in trying to please them.]

"May 3d. . . . Capt. John Floyd arrived . . . from a camp on Dick's river, where he had left about 30 men of his company from Virginia, and said he was sent by them to know on what terms they might settle our lands. That, if it was reasonable, they would pitch on some place on which to make corn, or otherwise to go on the north side of the [Kentucky] River.

"Was much at a loss on acct of this gents arrival and message, as he was surveyor of Fincastle under Col. Preston, a man who has exerted himself against us. . . . This man appeared to have a great share of modesty, an honest, open countenance, and no small share of good sense and petitioning in behalf of his whole company, among [them] . . . Mr. Dandridge . . . of Virga. and one Mr. Todd, two gents of the law . . . and several other young gents of good families. We thought it most advisable to secure them to our interest if possible and not show the least distrust of the

intentions of Capt. Floyd, on whom we intend to keep a very strict watch. Accordingly . . . promised them land and 1000 acres to the principal gents. . . . this we would not have done but for scarcity of men and the doubt with respect to the Virginians coming into our measure, acknowledging title, &c.

"We restrained these men to settle somewhere in a compact body for mutual defense, and to be obedient to such laws as should be made for the government of all the adventurers on our purchase, and gave them leave to make choice of any lands not before marked by any of our men, or a certain Capt. Harrod and his men who were settled somewhere abt. 50 miles west of us on the head of Salt River and of whom we could form no conjecture, but thought it best to prevent any interruption to him or his men 'til we should [learn] what he intended with respect to us and our titles.

"Capt. Collomas . . . with five other men arrived here from Frederick . . . in the N. West frontiers of Virginia. They had heard nothing of our purchase when they left home . . . Hearing of us and our pretensions they thought proper to come, tho they seemed not very conversable & I thought I could discover in our first intercourse a kind of sullen dissatisfaction and reserve which plainly indicated a selfish opinion to our disadvantage. This after some time wore off and they gladly treated with us for lands and other indulgences which we granted &c."

"Sunday 7th: went into the woods with my brothers . . . and Capt. Boone after a horse left out on Saturday night. On our return found Capt. Harrod and Col. Slaughter from Harrodstown. . . . seemed very jocose and in great good humor." [Henderson described Colonel Slaughter as a "sensible and experienced old gent—a man of good family and connection, and a great friend to our country."]

"Monday 8th. Rainey. was much embarrassed with a dispute between the above mentioned gentⁿ. Capt. Harrod with abt 40 men settled on Salt River last year, was drove off—joined the army with 30 of the men and being determined to live in this country had come down this spring from Monongahela, accompanied by ab't 50 men, most of them young persons without famalys—they came on Harrod's invitation. those Men had got possession some time before we got here and I could not certainly learn on what Terms or pretense they meant to hold land, and was doubtful that so large a body of Lawless people from habit & Education (they were chiefly raised on Mononga[hela] where no law had ever existed . . .) would give us great trouble and require

the utmost exertion of our abilities to manage them and not without considerable anxiety and some fear [I] wished for an intercourse with Capt. Harrod who, I understood, was chief & had all the men in that quarter under his absolute direction & comm^d. But was soon undeceived on this point. Tho those Gent were friendly to each other and open in all their conduct, they were warm Advocates and Champions for two different parties. A schism had raised between Harrods men whom he brought down the Ohio with him and those from diverse parts of Virg^a and elsewhere—amounting to about 50 in number on both sides. Harrods men being first on the spot claimed a priority of choice and had they have stopped there the dispute would scarcely ever existed, for the others seem'd willing to give in to such a preference, but the Complaint Laid before us by Colo Slaughter in behalf of the other men and on which we were to decide was that Harrods men had not contented themselves with the choice of one tract of land apiece, but had made it their entire business to ride through the country, mark every piece of land they thought proper, built cabbins, or rather hog pens to make their claims notorious . . . and by such means had secured every good spring in a country of 20 odd miles in length and almost as broad . . . tho in those parts one entire good tract of land and . . . no advantage in choice, except as to water. Slaughter's men had imployed themselves in clearing land and making ready for as large a crop of corn as possible. . . . Capt. Harrods men had totally neglected to do anything that way, there being at this time in Harrods settlement not more than three acres cleared and ready to be planted, and that for the Capt. only, whilst in less time [the] same number of hands of Slaughter's [company] had somewhere between 60 and 80. Fair and clear as this case was in favor of Slaughters men, upon every principle of justice, . . . we were affraid to determine in favor of the right side and not being capable, if we could have wished it, to give a Decree agt them, our embarassment was exceeding great."

Here follows an amusing but pathetic narrative of Colonel Henderson's diplomatic troubles. Carefully avoiding any decision in favor of either side, he led the disputants to discuss other subjects, "the lawless condition we were in," the imperative need of some government, if lands were to be of any real value to anybody, and the plan of the proposed government. At last, he said, "Col. Slaughter and Capt. Harrod took their departure in great good humor and apparently well satisfied."

For the next few days Henderson makes no mention of complications about his company's title, but he does mention another cause of serious apprehension:

"Tuesday 9th. . . . For want of a little obligatory law, or some restraining authority, our game soon,—nay as soon as we got here if not before,—was drove very much. 15 or 20 miles was as short a distance as good hunters thought of getting meat. Nay sometimes they were obliged to go thirty, tho' by chance, once or twice a week, buffaloe was killed within 5 or six miles. [The settlers relied mainly upon game for their food, and scarcity of it repeatedly threatened the abandonment of Kentucky.]

"Saturday 13. No washing here on this day. No scowering of floors, sweeping of yards, or scalding of bedsteads.

"Sunday 14. No divine service, our Church not being finished. . . . About 50 yards from the river behind my camp and a fine spring a little to the west, stands one of the finest elms that perhaps nature has ever produced. The tree is produced on a beautiful plain, surrounded by a turf of fine white clover, forming a green to the very stock. The trunk is about 4 feet through to the first branches, which are about 9 feet from the ground. From thence it regularly extends its large branches on every side at such equal distances as to form the most beautiful tree the imagination can suggest. The diameter of the branches from the extreme ends is 100 feet; and every fair day it describes a semicircle on the heavenly green around it of upwards of 400 feet in circuit. At any time between the hours of 10 and 2, 100 persons may commodiously seat themselves under the branches.

"This Divine tree, or rather one of the many proofs of the Existence from all eternity of its Divine Author, we came in time enough to redeem from destruction. This same tree is to be our Church, State House, Council Chamber. Having many things on our hands have not had time to erect a pulpit, seats, &c., but hope by Sunday to perform divine service for the first time in a public manner, and that to a set of scoundrels who scarcely believe in God or fear a Devil, if we were to judge from most of their looks, words, and actions."

When trees were so many as to be generally looked upon as hindrances to be removed, Henderson's appreciation of this fine specimen is worthy of praise. His sweeping denunciation of his fellow pioneers as scoundrels was probably due to their contesting and ridiculing his vaulting proprietary pretensions; for

amongst them were worthy young men who proved valuable citizens and won general esteem.

"Monday 15th. . . . arrived here 10 men, eight from Dunmore [County] Va. Major Bowman, Capt. Bowman & one Capt Moore were the principal men."

The two Bowmans were to play prominent parts in the coming war.³

"Friday 19th This evening Mr Math Jouet arrived here from Capt. Floyds. . . . By him heard that Capt. Floyd was not at St. Asaph on the return of Col. Slaughter & Mr. Harrod . . . afraid that the town on that acct. had not proceeded to Elect Delegates to meet in Convention

"Saturday 20th. Election for Boonesbrough had this afternoon with great regularity when Squire Boone, Daniel Boone, William Cocke, Samuel Henderson, W^m. Moore and Richard Callaway were Elected. . . . Wrote to Mr. Todd & sent W^m. Bush to St. Asaph Directing an Election, in case was not done, with orders to be in on tuesday Ev^g. at farthest. . . .

"Tuesday 23^d. delegates met from every town Pleased with their stations—& in great good humour."

This "Convention," held under the great elm, was the first ever held by British colonists west of the Alleghenies; and it must have been a most picturesque one. Probably all attended in rough, torn and soiled frontier garb, save perhaps Colonel Henderson, who, although not a member, evidently directed the ceremonies, and as a lord proprietor, doubtless dressed himself for the occasion as impressively as his wilderness wardrobe permitted. With such actors and amidst such surroundings, the studiously formal proceedings which followed must have seemed grotesque to an appreciative onlooker.

"Wednesday 24th The Convention met Sent a Message Acquainting me that they had chosen Col Tho^s. Slaughter

³ Major John Bowman, two years later, became Kentucky's first county lieutenant. His brother, Capt. Joseph Bowman, was to be second in command under Clark in the Illinois campaign. Another of the party was their cousin, Capt. Isaac Hite, who settled in Kentucky. There were two other Isaac Hites;

one an uncle of Isaac Hite of Kentucky, lived east of the Alleghenies, in Frederick County, Va., and was a merchant-planter and large land owner; and the latter's son, Major Isaac Hite of the Continental Army. All were descendants of Yost Hite (Heydt).

Chairman and Mr. Matt. Jouet Clerk of which I approved—went and Open'd the business by a Short speech &c

"Thursday 25th. Three of the Members of the Committee waited on the proprietors with a very sensible address, with asked leave to read and read it and Deliver'd in—Return'd an Answer &c—business went on &c—This day four bills were fabricated & read—One for Establishing tribunals of Justice & recovery of debts—2^d for Estab^g a Militia—3^d for preventing the distruction of game &c fourth a Law concerning fees—some of which I got a slight view of—[imperfect] the delegates very good men and much disposed to save their Country.

"Saturday 27th finished Convenⁿ in good order—Every body pleased &c [They did not long remain pleased, however.]

"Sunday 28th—Divine Service for the first time by the Reverend John Lyth, Minister of the Church of England—Most of the Delegates returnd home. . . .

"7th. Mr. Laurence Thompson arrived from Orange—No letters from our friends—Letter with an acct. of the Battle at Boston.⁴

"Wednesday 31st. . . . Joind by Jn^o. Colson and a number of other Scoundrels

"Saturday 3^d people arrived from St. Asaph had wantonly broke up, hid their tools and on their way home &c"

"Monday 5th Made Our Commissns to wit for Harrodsburg, Boiling Spring settlem^t. & St. Asaph—both Military & Civil. . . .

"Tuesday 6th. Capt. Harrod went down the river home accompanied by Mr. David Wilson & Alexander from McLenb^g. who arrived here last week—Mr. Hart talks of going next Monday—Abundance of people going away selling their lots &c and will not be detain'd—Offer'd several young men to admit them to enter Lands as if they working corn &c rather than they should go—they seem determined on going—and accordingly went in the Evening . . .

"Monday 12th people going away, Mr. Hart &c—wrote constantly til 3 oClock in the Morn^g. . . .

"Saturday 17 A Muster of the men at the Fort by Capt.

⁴ This is the order in which this appears in the Journal.

⁵ June 4, Nicholas Cresswell and party arrive "at Harrod's Landing" on the Kentucky River (fourteen days coming up and nearly starv-

ing) fourteen miles from Harrodsburg. Nourse reports "about thirty houses in it, but not a nail in the whole town." (*Journal of Nicholas Cresswell*, p. 83.)

Moore—32 men appeared under Arms—In bad order—weather wet &c—

“Sunday 18 Fine growing weather Corn planted 27 or 27th April was tassel'd & shot—had a mess of snap Beans—peas ripe—& cucumber set—Michael Stoner our Hunter not returned, was expected yesterday—No meat—Two men from Virga. found Bacon on which with the beans afs^d. we had an excellent Dinner

“Wednesday 21st. Returned home late at night with a Load of Buffaloe &c found two Gent^t. with Cap. Harrod & some young men at our camp—These Gent^t. Mr. Nourse & Mr. Johnston⁶ both had called on Cap^t. Russel at Pt. Pleasant who had tempered their will &c We found them Clever & as much in Our Interest, as we could wish—They were then on their way to the N^o. of Kentuckey to Survey Officer's claims &c. The[y] seem resolv'd on purchasing & becoming settlers with us—Mr. Johnston made application to have about 10,000 acres of Land granted to him as Officer's Claims, tho' not more than 1,000 Surveyd, the rest, only entrys in Col Prestons Books upon being refused, or what amounted to the same, [he was] Advised to Survey on Crown Lands lest he might fail went over to lay his claims on the Other side—seemd satisfied with our reasons for giving no encouragement—N. B. one piece of 1000 Acres Surveyd near the Falls we gave him some Encouragem^t. ab^t. &c— . . .

“Fryday 23. rec^d. a letter by M. Johnston from the Rev^d. Cha^s. Mynn Thruston advising of the proceedings in the Virga. Convention &c—desireing to make a large purchase in partnership with Johnston & Em^d Taylor—

“Tuesday 27th. Mr. Nourse Mr. Wilson Mr. Alexander and Jonathan Jennings set off for Virga. Col. Harrod & Mr. Benjⁿ. Johnston set off just before them for Harrodsburg &c. . . .

“Saturday 1st July 1775 Dry weather People going away—Mr. Luttrell & myself set off for Harrodsburg to meet Col. Slaughter who has been ab^t. four weeks Viewing Green River &c. . . .

“Thursday 6th. went to Harrodsburg saw Col Tho. Slaughter and others from Green River—Accounts something different, Col Slaughter seem'd well pleased, in general, but could not find a spot on which to locate his 100,000 Acre Tract but said there was a fine Country Others spoke indifferently and thought otherwise

⁶ See *Journal of Nicholas Cresswell*, who came to Kentucky with them.

"Fryday 7th. Set off back in Company with Mr. Slaughter and about 12 others who were going in to bring out their famalys or stock. Harrodsburg seem'd quite abandond, only five men left on the spot to guard the Crop &c—Came on to St. Asaph where we Lodg'd that night—in our way Saw the Nobb & flat licks the former of which is a great curiosity Containing within the lick & Stomp⁷ near 100 Acres of Land. . . .

"Wednesday 12th. . . . Times a little melancholy, provisions very scarce, no salt to enable us to save meat at any distance from home, no account or arrival from within; Weather very dry—and we not able to raise above 10 or fifteen fighting men at any one time unless they were all summoned, which could not easily be done without long notice, they being much dispersed, Hunting &c. . . .

"Wednesday 19th Nothing uncommon—More than three men arrived to wit Capt. Linn, Mr. Crittenden⁸ and one Mernton Farrar from Monongahale intending to Settle on the N^o. of Kentuckey No news—

"Thursday 20th. My brother, Sam^l., Joel Walker, Val Harmon John Harmon and their boys set off for Carolina and Capt. Linn & his Company set off down the river to Lee's settlem^t. with whom I sent two men for a little salt—our men being not yet returned. . . .

"by Capt. Linn—we were informed that 5 or Six men were gone down the Ohio to the Falls by Order of Capt. Bullet—Mr. Bullet's Orders & his mens resolutions were to pay no regard to our title but settle the Land Nolens Volens—they also inform that Major Connelly is resolved on the same Conduct—."⁹

Some time before these events occurred, Governor Dunmore issued a proclamation declaring Henderson & Company's claim to Transylvania illegal, and prohibiting all settlements west of the Alleghenies.¹⁰ This proclamation Henderson, in his address

⁷ Ground stamped by buffalo.

⁸ Father of United States Senator John J. Crittenden, author of the famous Crittenden Compromise.

⁹ Henderson's *Journal*, Draper MSS., 1 C C 21, etc. (holograph).

¹⁰ Lord Dartmouth, the British minister for Colonial Affairs (evidently influenced by the Indiana-Vandalia promoters in London) warned Dunmore to permit no "settlement under the authority of Vir-

ginia on lands which lie beyond its western limits," by which he meant the lands west of the Alleghenies, or rather west of the headwaters of the streams flowing from those mountains into the Atlantic. Dartmouth, however, instructed Dunmore to oppose the claim of Governor Penn to western Pennsylvania, saying this is "necessary to prevent an extension of claims on the part of Pennsylvania in prejudice to the

to the Booneville "Convention," denounced as "an infamous and scurrilous libel lately printed and published concerning the settlement of this country, the author of which avails himself of his station and . . . has uttered invectives of the most malicious kind and endeavors to wound the good name of persons whose moral characters would derive little advantage by being placed in competition with his, charging them, among other things equally untrue, with a design 'of forming an asylum for debtors and other persons of desperate circumstances,' placing the proprietors of the soil at the head of a lawless train of abandoned villains against whom the regal authority ought to be exerted."¹¹

Colonel Henderson, however, soon saw that without help from other sources, his company's proposed proprietary government could not be imposed on the Kentucky pioneers, and he returned to North Carolina a sadly disappointed man. His next efforts were made to prevent Virginia from asserting jurisdiction over Kentucky. In this, too, it will be found he was unsuccessful. Finally he and his associates sought aid from the Continental Congress, but in vain.¹²

The interesting letters of John Floyd to Col. William Preston also give much light upon living conditions in Kentucky during

King's Rights; and it is his Majesty's pleasure that you continue to exert and exercise the authority of the government of Virginia in that district until the King's further pleasure shall be known." *British Museum MSS.*, June 1, 1774.

¹¹ Collins' *Kentucky*, II:503.

¹² In 1778 the Virginia Assembly passed an act reciting that as "Richard Henderson and company have been at very great expense in making a purchase of the Cherokee Indians, and although the same has been declared void, yet as this commonwealth is likely to receive great advantage therefrom, by increasing its inhabitants, and establishing a barrier against the Indians," and granting the company a tract of land in Kentucky "on the waters of the Ohio and Green rivers, bounded as follows, to wit, beginning at the

mouth of Green River, thence running up the same twelve and a half miles, when reduced to a straight line, thence running at right angles with the said reduced lines twelve and a half miles on each side the said river, thence running lines from the termination of the line extended on each side the said Green River at right angles with the same, till the said lines intersect the Ohio, which said river Ohio shall be the western boundary of the said tract." The act excluded any claims of the grantees "to lands on account of any settlement or improvements heretofore made by them, or any of them, on the lands so as aforesaid purchased from the Cherokee Indians." (Hening's *Statutes at Large*, IX:571.) Within this tract the city of Henderson now stands by the Ohio.

this early period—about savage hostilities, the uncertainty of the pioneers about the ownership of the country, their manner of taking up lands, and their disputes relative to their rival claims. Floyd was one of the most admirable and lovable of all the young men in Kentucky's early history, and deserves to be far better known by her people.¹³ A few extracts from his letters will here be given.

April 21, 1775, he wrote:

"The people in general seem not to approve of the Governor's instructions with regard to settling the land; nor will any that I have seen purchase from Henderson; they rather choose to settle, as they have done on Holston. When they apply to Henderson to purchase, he offers them deeds made from those the Cherokees gave him, and demands their bonds for the money. He says his title is already sufficient to make conveyances, and talks of having an office of his own to keep records, &c."¹⁴

§

"Kentucky Levels, 30th. of May, 1775

"Dear Sir

"We have seen no Indians since our arrival here; no damage done by them except one Boston who has been killed or lost. My Company are all settled near Green River on the southern waters of the Kentucky, and have erected a little town which they call St. Asaph, where they are making crops of corn. All the settlers have received Col. Henderson as proprietor of that side the river Kentucky which is called Transylvania colony. He had called to Boonsborough (another little town) delegates from all the settlements, in order to form some regulations among the people. They are eighteen in number, who have made laws for establishing courts of justice; rules for proceeding therein; also, a militia law; an attachment law; a law for preserving the game, and for appointing civil & military officers, &c.

"The number of inhabitants, I think does not exceed three hundred in all, that I can hear of, on these waters—they have about 230 acres of corn growing."¹⁵

¹³ For sketches of him see Collins' *Kentucky*, II:238-9; Thwaites & Kellogg's *Dunmore's War*, 9; *Louisville's First Families* (Kathleen Jennings), 153, etc. His son and

grandson became governors of Virginia.

¹⁴ *Draper MSS.*, 17 C C 167.

¹⁵ *Draper MSS.*, 17 C C 180.

§

"Boonesborough, 1st. Sept. 1775.

"Dr Sir—

"... I have nothing new to inform you of, only a great many land jobbers from towards Pittsburgh who, I doubt, will hurt the settlement on the north side of Kentucky, if it can't be prevented: They go about in companies and build 40 and 50 cabins a peice on the land where no surveying has yet been done; & I am convinced there can't be an officers claim of 2000 acres laid to any great advantage after this year. . . .

"I have men clearing me a large plantation, & have learned to handle the axe pretty well myself. M. Todd is doing the same, who offers his compliments to you. . . .

"I intend me as soon as the weather gets cool enough to save beef, to kill as much as will serve your hands (if you send any) and my own next summer; this I can easily do, as I have salt of Col. Henderson and a man hired to stay at my place until I return.

"But I must drop my pen for it is too dark to write any more, & I have no candle, & as soon as its day, obliged to go & hunt or starve.

"May the Great Disposer of Events protect your person & estate from all vile sycophants."¹⁶

§

"Bad Luck Camp, Oct. 31, 1775.

"... I am almost distracted about staying out so long and almost fatigued to death serving as a butcher—my hands cut to pieces with bones, my eyes almost scratched out, and as shabby as a turkey buzzard in May."¹⁷

¹⁶ *Draper MSS.*, 33 S 282.

¹⁷ *Id.* 33 S 289.

PART THREE

KENTUCKY DURING THE REVOLUTION

CHAPTER VIII

PIONEERS SEEK VIRGINIA'S PROTECTION

By following Henderson's *Journal* and Floyd's letters we have been led to the outbreak of the Revolution; but while the events they narrate were happening amongst the people at Harrodsburg, Boonesboro, and St. Asaphs, other people no less worthy of mention came to Kentucky, and one or two other small settlements were established. In May came Simon Kenton, who became famous as a shrewd and courageous scout and spy. In the same month Col. Hancock Lee, Washington's successor as chief surveyor for the Ohio Company, led a party into Central Kentucky and founded the town of Leesburg, on the Kentucky River; a short distance from the present site of Frankfort. George Rogers Clark was his deputy.¹

The recently published *Journal of Nicholas Cresswell*,² who was an educated and very observant young Englishman, gives a most interesting and evidently trustworthy account of his experiences in America, including a journey down the Ohio and up the Kentucky in May, 1775, with Capt. Richard Taylor (father of President Taylor), his brother Edmund, and several others. On May 10th Cresswell says reports came of Indian hostilities and they "held a council whether we should proceed or turn back. After much altercation our company determined to persevere, tho' I believe they are a set of Damned cowards." But he was inexperienced in the wilderness and they doubtless knew, far better than he, the danger threatening them. He was a loyal

¹ Both Marshall's and Collins' histories erroneously say Clark first came to Kentucky the next year, 1776.

² Dial Press, N. Y., 1924.

Briton and in another entry shows the animosity against Tories then existing among the American revolutionists:

"May 14th. . . . Mr. Edmund Taylor and I entered into a discourse on politics which ended in high words. Taylor threatened to tar and feather me. Obligated to pocket the offense. Find I shall be torified if I hold any further confab with these red-hot liberty men. (Mem. Taylor's usage to be remembered.)"

Creswell doubtless "remembered" the rough usage he had received, but wisely took no steps to resent it, for he does not again mention it.

Probably nine-tenths of the people in Kentucky in 1775 were Virginians, and few of them at any time looked with favor upon the effort of Henderson and his colleagues to establish a proprietary government there. No doubt nearly all hoped that Virginia would govern them and confirm their land claims; but they realized that this was very uncertain. Eighty-seven signed a petition to the Virginia Convention praying to be governed by that colony. It appears in the appendix and shows them at sea as to whether Virginia or Congress would own Kentucky if the Revolution should prove successful.³

³ The petition was signed by "James Harrod, Abm. Hite, Jun., Patrick Dorane, Ralph Nailor, Robert Atkinson, Robert Nailor, John Maxfeld, Samuel Pottinger, Barnerd Walter, Hugh McMillion, John Kilpatrick, Robert Dook, Edward Brownfield, John Beesor, Conrad Woolter, John Moore, John Corbie, Abraham Vanmetre, Samuel Moore, Isaac Pritcherd, Joseph Gwyne, Charles Creeraft, James Willie, John Camron, Thomas Kenady, Jesse Pigman, Simon Moore, John Moore, Thomas Moore, Herman Consoley, Silas Harland, Wm. Harrod, Levi Harrod, John Mills, Elijah Mills, Jehu Harland, Leonard Cooper, William Rice, Arthur Ingram, Thomas Wilson, William Wood, Joseph Lyons, George Uland, Michael Thomas, Adam Smith, Samuel Thomas, Henry Thomas,

William Myars, Peter Paul, Henry Symons, William Gaffata, James Hugh, Thos. Bathugh, John Connway, William Crow, William Feals, Benjamin Davis, Beniah Dun, Adam Neelson, William Shephard, Wm. House, John Dun, John Sim, Sen., John House, Simeon House, Andrew House, William Hartley, Thomas Dean, Richard Owan, Bar-net Neal, John Severn, James Hugh, James Calley, Joseph Parkison, Jediah Ashraft, John Hardin, Archibald Reves, Moses Thomas, J. Zebulon Collins, Thomas Parkison, Wm. Muckleroy, Meredith Helm, Jun., Andrew House, David Brooks, John Helm, Benjamin Parkison, William Parkison, William Crow." (Perkins' *Western Annals*, 158-9; Collins' *Kentucky*, II:510. Collins changes the order of signatures and arranges them alphabetically.)

The date of this petition is unknown, although, as Collins states, it was probably late in 1775.⁴ It was unsupported, however, by any personal appeal to the convention, and apparently received no attention; for the members were then engrossed with other affairs which they doubtless thought far more important and pressing. Nearly everything else there had to yield to the general movement for union and independence.

Furthermore, Virginia's claim to Kentucky was already being assailed in the Continental Congress, and it seemed hardly an advantageous time for her to press it. The Indiana and Vandalia promoters were strongly influencing Congress to appropriate the whole trans-montane region and confirm their claims to West Virginia and Eastern Kentucky.

During the first session of Congress (1775), Doctor Franklin proposed "Articles of Confederation and Perpetual Union" which, had they been adopted, would doubtless have met fully their desires. One of his articles gave Congress the power of "settling of all disputes and differences between colony and colony, about limits, or any other cause, if such should arise, and the planting of new colonies when proper." Congress, however, rejected Franklin's articles. This must have caused sore disappointment to the promoters, for it seemed to end their hope of having Congress given power to limit Virginia's western bounds to the line of the Alleghenies and confirm their Indian grants of lands west of those mountains. They were by no means ready to give up the fight, however. Encouraged by them, Maryland and more northerly states, which had no charter right to trans-Allegheny lands, still contended for articles giving Congress jurisdiction over all such lands as the common property of all the states. Their delegates denied Virginia's claim to any lands west of the line of the Alleghenies. On the contrary, they asserted that those lands belonged to the King; that if they were wrested from him it would be "by the joint effort, blood and treasure" of all the states; and that therefore the lands should be the joint property of all. This assertion of the King's ownership was a departure from the previous contention of the colonies that he never had personal ownership of their ungranted charter lands, but held legal title to them only for the colonies as their sovereign repre-

⁴ Collins' *Kentucky*, II:511.

sentative. It was an abandonment of the principle of popular rights for that of royal prerogative.

This effort to have Congress appropriate the western lands was most extraordinary in view of the nature of that body. As John Jay said, it was only a committee of conference to correct abuses in the King's government. It was not given any governmental powers, nor authorized to initiate a government, much less to be one. Plainly such a Congress could have no claim to an acre of western lands; and it was equally clear that, if any state had title to them, neither Congress, nor the other states, had lawful power to appropriate them.

The next year after Franklin's draft of articles was rejected, John Dickinson, another Pennsylvania delegate, offered new ones. They contained substantially the same provisions concerning the fixing of state boundaries by Congress, and would have given it power to appropriate the whole western wilderness for all the states and confirm the Indiana and Vandalia grants. Dickinson's draft was discussed many times, and sometimes with great warmth—Maryland and Pennsylvania leading in advocating it. Maryland particularly, ever jealous of her more populous, wealthy, and influential neighbor, Virginia, seemed determined that she should not own the vast and valuable western region.

Jefferson's condensed notes of the debate in Congress on this great issue have been preserved. He moved to amend Dickinson's draft so as to prevent Congress from attempting to limit Virginia's boundaries.⁵ He contended that "the limits of the southern colonies are fixed," and that neither Congress nor the other states could lawfully meddle with them.

Chase of Maryland contended that "no colony has a right to go to the South Sea; they never had; they can't have. It would not be safe to the rest. It would be destructive of her sisters and herself." Apparently he contended that such colonies should be confined by Congress to "reasonable limits." Jefferson answered: "What are reasonable limits? What security have we that Congress will not curtail the present settlements of the states?"

Stone of Maryland stated what seems to have been the only moral ground to excuse an illegal appropriation of Virginia's

⁵ *Journal Continental Congress* (Ford), VI:1076, July 25th to August 2, 1776. It is significant that Jefferson's amendment was seconded by Sherman of Connecticut.

charter lands, when he said: "The small colonies have a right to happiness and security; they would have no safety if the great colonies were not limited."

Wilson of Pennsylvania said: "Every gentleman has heard much of claims to the South Sea. They are extravagant. The grants were made upon mistakes. They were ignorant of the geography. They thought the South Sea within one hundred miles of the Atlantic Ocean. It was not conceived that they extended three thousand miles. Lord Camden considers the claims to the South Sea as what can never be reduced to practice.⁶ Pennsylvania has no right to interfere with those claims, but she has a right to say that she will not confederate unless those claims are cut off." Here was the great issue sharply presented: Virginia must give up her charter claim to the great west, or there should be no confederation! The need for confederation, however, was very pressing. One member said: "We must apply for pardons if we don't confederate."⁷

Sherman of Connecticut thought "the bounds ought to be settled. A majority of States have no claim to the South Sea. Moves this amendment:—'No lands to be separated from any state which are already settled or become private property.'" This would no doubt have been entirely satisfactory to the Indiana Company, but it would have deprived Virginia of nine-tenths of her western charter territory. As the amendment would have prevented Connecticut from asserting the claim, which she afterwards did assert, to a long, narrow strip of western land running to the Mississippi, this motion by Sherman shows how little importance was then attached to her claim, even by her own delegates. No charter claim for that state, or any other north of Virginia, was seriously pressed in Congress during the Revolution.⁸ Chase of Maryland again contended that no "Colony has a right to go to the South Sea." Harrison of Virginia retorted: "How came Maryland by its land, but by its charter? By its charter Virginia owns to the South Sea. Gentlemen shall not pare away the Colony of Virginia."

⁶ Wilson evidently did not know of Camden's interest in the Van-dalia Company grant.

⁷ *Journal Continental Congress*, VI:1079.

⁸ That of Massachusetts was once mentioned, but nothing more.

Huntington of Connecticut followed saying: "Admit there is danger from Virginia, does it follow that Congress has a right to limit her bounds? The consequence is not to enter into confederation. But as to the question of right, we all unite against mutilating charters. I am not so much alarmed at the danger from Virginia as some are; my fears are not alarmed; they have acted as noble a part as any. . . . A man's right does not cease to be a right because it is large. The question of right must be determined by the principles of the common law."

Stone of Maryland replied: "This argument is taken up on a very wrong ground. It is considered as if we were voting away the territory of particular colonies, and the gentlemen work themselves up into warmth upon that supposition. . . . The small colonies have a right to happiness and security; they would have no safety if the great colonies were not limited. . . . It is said that Virginia is attacked on every side. Is it meant that Virginia shall sell the lands for their own emolument? All the colonies have defended these lands against the King and Great Britain and at the expense of all."

Jefferson closed the debate, saying: "I protest against the right of Congress to decide upon the right of Virginia."

Had Virginia failed to maintain her jurisdiction over Kentucky, the pioneers there would have had choice of any one of four courses:

(1) They could have accepted such land titles and government as Henderson and Company could give them; but they evidently believed them worthless.

(2) They could ask and get British protection and government by turning loyalists. Had this course been followed, Kentucky would soon have become the gathering place for the King's supporters from the western borders of Pennsylvania and the southern states, and a hotbed of destructive Indian warfare along the inner frontiers. Thousands of western Indians—their own distant homes being safe from attack—would have ravaged the Pittsburgh and Kanawha districts, swept the Holston settlements, and made the Valley of Virginia and western and central Pennsylvania seats of terrible savage warfare. Those frontiers

⁹ *Journal Continental Congress*
(Ford), VI:1076-7; 1082-3.

furnished Washington with many of his most valuable fighting men and sorely needed supplies, especially live stock, which could be driven great distances and find forage on the way. Inevitably, had they been overrun by the savages, the frontiersmen serving in the eastern armies would have left him to save their own homes and families, and he would have been compelled to send others of his troops to aid them. At no time, however, did the Kentucky pioneers show the slightest inclination to ally themselves with the British. They would never contemplate deserting their fellow revolutionists of the East.

(3) A third course open to the Kentuckians was submission of themselves and their lands to the jurisdiction of the Continental Congress. This course would have been the most disastrous of all; for Congress would have given them no real protection. It was ill prepared to carry on a war with so powerful an enemy as Great Britain, even along the seaboard. In the early days of the Revolution it had neither trained troops, nor men capable of training them. Nor was there any real union of the states. During the first six years of the Revolution, owing to the sinister influence of the Indiana and Vandalia land-jobbers and the efforts of northern states to have Congress appropriate the trans-Allegheny region, there was no Confederation. The so-called "United States" was little more than the name for a loose and wholly irregular league of thirteen separate revolting states, functioning only by their acquiescence and through a Congress which had no real element of sovereignty. It could not raise a dollar by taxation, but could only appeal to the states for funds. It had no power to enlist or draft troops, but could only request the states to lend them. It could not lawfully issue money, though it usurped power to do so and the states acquiesced.

In a great outburst of patriotism during the first year or two of the Revolution most of the states responded enthusiastically to the calls of Congress for troops and supplies. While the siege of Boston and the following operations in New England and New York lasted, the people of most of the states south of them gladly furnished men and sent supplies to aid their northern brethren. But conditions soon changed. New Jersey, Pennsylvania, South Carolina, Georgia, and later North Carolina and Virginia, became the seats of destructive warfare. Meanwhile all the states and the people were rapidly becoming exhausted. Year by year, with

occasional cheering events, the American cause became more and more desperate, and Congress more and more powerless, inefficient, and financially crippled. Despite some high-type members, it also lost character and became deservedly discredited.

Had the Kentucky pioneers submitted their country and themselves to the jurisdiction of Congress, there seems little reason to believe it would have supported them sufficiently to enable them to maintain their ground. Humanly speaking, it seems certain that the settlers would all have been killed, or driven away, and that a desperate struggle would have ensued for possession of Western Pennsylvania and the Valley of Virginia.

(4) Lastly, if Virginia had refused to maintain her jurisdiction over Kentucky and recognize and protect the pioneers there as her citizens, they could have set up a state of their own. Had this been done, they could have negotiated with Congress for admission to the confederation upon equitable terms, one of prime importance being its confirmation of their land titles under the laws of Virginia. This confirmation, it can hardly be doubted, Congress would readily have granted, despite opposition from the Vandalia promoters; for an independent Kentucky would have been dangerous to the Atlantic states. With Kentucky out of the confederation, the British would have been interested in protecting rather than harassing its people. Its vast acreage of rich lands would have invited great numbers of loyalists from the East, and probably the population would soon have become pro-British.

To all of the worrying uncertainties of the Kentucky pioneers about their land titles, their proper allegiance, and the course they should pursue, was added the prospect of dreadful savage war. During 1775 there was no general war in the West, although along the frontiers of Pennsylvania, Virginia and southward, there were many sporadic killings of scattered white settlers and burnings of homes. But many foresaw that the King and colonies were entering upon a determined struggle and that perilous times were ahead. To no other people in America was the danger so great as to the pioneers in Kentucky. The handful of men in the group of small settlements there—"set far out in the wilderness like an island in the sea"—were a 200-mile journey over difficult mountains from their nearest neighbors on the

Holston; while both north and south of them were thousands of warlike savage allies of the British. Situated as they were, it seems extraordinary that they did not either abandon Kentucky, or seek peace with the British and Indian enemies. Had they been only of the ordinary type of backwoodsmen they would doubtless have done that.

"Here a persistent error should be corrected. The pioneers of Kentucky are usually described as of one general class—brave Indian fighters, but rude and ignorant. Certainly there were many of that kind, but also many of a very different kind. It should be clearly understood that the rush of settlers to Kentucky in 1775 and early 1776 was very different from ordinary migrations to the borders of civilization. It occurred at a time of great excitement in Virginia and adjoining colonies over the recently explored land of promise; and it drew into its current a great many enterprising young men from well known families. Few of them, perhaps, represented over-well the culture standards of their own families, for they were evidently fonder of adventure than of books, and more interested in western lands than in eastern society; but they were not boors. . . . Despite the rough conditions of life where they were, many of them preserved much of the courtesy of the old eastern colonial society in which they had been reared. Men of this class inevitably furnished the brains and became the leaders and mainstays in the western struggle for independence and empire. No inferior class would have visioned the greatness of the American cause, or been willing to make the sacrifices necessary to carry it to success.

"A surprisingly large proportion, especially of those who remained through 1776 and 1777 to battle for the country, were of this class. Such pioneer names as Harrison, Todd, Lee, Rogers, Floyd, Randolph, Clark, Taylor, Hite, Walker, Jouett, Hart, Lewis, Spottswood, Dandridge, Hanson, Bowman, Crittenden, Worthington, Chapline, Shelby, Slaughter, and many others had been highly respected ones in the old colonies."¹⁰

Although the petition of the Kentucky pioneers to the Virginia convention secured no results, there was one man amongst them who set about finding a way out of their difficulties. This

¹⁰ Author's *George Rogers Clark* (Houghton Mifflin Co., 1926), pp. 37-8.

was George Rogers Clark, then only twenty-three years of age. Like other Virginians in Kentucky, he hoped his state would assert and maintain her jurisdiction there; and to find whether she would or not, he journeyed to the capital, Williamsburg. He probably had excellent opportunities for learning the attitude of leading men there concerning this question, for he was not a stranger to the governor, Patrick Henry; and two eminent members of the convention, Col. George Mason and Thomas Jefferson, were his good friends, and his own brother, Jonathan, was also a member. He afterwards wrote:

“I left the country in the fall, 1775, and returned the spring following. While in Virginia I found there was various opinions respecting Henderson’s claim. Many thought it good, others doubted whether or not Virginia could, with propriety have any pretensions to the country. This was what I wanted to know. I immediately fixed my plan,—that of assembling the people, get them to elect deputies, and send them to the Assembly of Virginia, and treat with them respecting the country. If valuable conditions was procured, to declare ourselves citizens of the state, —otherwise establish an independent government, and, by giving away a great part of the lands and disposing of the remainder otherwise, we could not only gain great numbers of inhabitants, but in good measure protect them.

“To carry this scheme into effect, I appointed a general meeting at Harrodstown, on the 6th of June, ’76, [giving notice] that something would be proposed to the people that very much concerned their interest. The reason I had for not publishing what I wished to be done, before the day, was that the people should not get into parties on the subject; and, as everyone would wish to know what was to be done, there would be a more general meeting. But, unfortunately, it was late in the evening of the day, before I could get to the place. The people had been in some confusion, but at last concluded that the whole design was to send delegates to the assembly of Virginia with a petition praying the assembly to accept of them as such, to establish a new county, &c. The polls were opened and, before I arrived, [they had] far advanced in the election, and had entered with [such spirit] into it that I could not get them to change the principle—that of delegates with petitions, to that of deputies under the authority of the people. In short I did not take much pains. Mr. John Gabriel Jones and myself was elected, the papers prepared, and . . . in a few days we set out for Wil-

liamsburgh, in hopes [of] arriving before the convention then sitting, should arise.”¹¹

Clark wanted deputies appointed, rather than delegates, because deputies, as agents of the assembled pioneers, would be free to negotiate with the Virginia Assembly for terms before acknowledging her jurisdiction; whereas the appointment of delegates, praying admission as members of the Assembly, would in advance admit her jurisdiction.

The papers which Clark and Jones carried to the Virginia capital were two; and both are interesting, not only because of their contents, but because they were the very first writings expressing popular opinion in Kentucky. Both of the original papers—torn and fragile—are still preserved in the Virginia State Library at Richmond. The first was an address from the pioneers to the revolutionary convention then governing Virginia and read as follows:

“To the Honorable the Convention of Virginia.

“The humble petition of the inhabitants of Kentucke (or Louisa) River, on the western parts of Fincastle County.

“Humbly sheweth, that many of your petitioners became adventurers in this part of the Colony in the year 1774, in order to provide a subsistence for themselves and their posterity, but were soon obliged by our savage enemy to abandon their enterprize. And in the year following, after the country had been discovered and explored, many more became adventurers, some of whom claimed lands by virtue of warrants, granted by Lord Dunmore, agreeable to the Royal Proclamation in the year 1763, and others by pre-occupancy, agreeably to the entry laws of Virginia.

“And in the meantime a company of men from North Carolina purchased, or pretended to purchase, from the Cherokee Indians, all that tract of land from the southernmost waters of Cumberland River to the banks of Louisa or Kentucke River, including also the lands on which inhabitants live in Powell’s Valley. By virtue of which purchase they stile themselves the true and absolute proprietors of the *New Independent Province* (as they call *Transylvania*) they are endeavoring to erect, and in consequence of their usurped authority, officers both civil and military are appointed, writs of election issued, Assemblies convened, a

¹¹ *Illinois Historical Collections*,
VIII:209-10.

land office opened, conveyances made, lands sold at an exorbitant price, and a system of policy introduced which does not at all harmonize with that lately adopted by the United Colonies; but on the contrary, for aught yet appears, this fertile country will afford a safe asylum to those whose principles are inimical to American Freedom. But your petitioners have the greatest reason to question the validity of those men's purchase, being well informed that the Cherokees never extended their claims north of Cumberland River, nor would warrant any lands on the other side. Besides, it is now well known, that the Indians of the Six Nations claimed & ceded those very lands to the Crown of Great Britain at a treaty held at Fort Stanwix in November, 1768.

"We, therefore, are not willing to obey those, or the authority they have assumed, or indeed, to acknowledge any power or prerogative which is not derived from the Convention of Virginia, whose subjects we desire to be considered. Virginia, we conceive, can claim this country with the greatest justice and propriety; it is within the limits of their charter; they fought and bled for it, and had it not been for the memorable battle at the Great Kanaway, those vast regions had yet continued inaccessible. Nor can we conceive how it is practicable for those men who stile themselves absolute proprietors to settle this country at so great a distance from all the Colonies, and in the neighborhood of some enemy Indians. But should our infant settlement become the object of your deliberations, and be taken under your protection and direction, unto whom we justly conceive that we belong, every obstacle would be removed, population increase, and of consequence a source of wealth would then be opened, as trade and navigation under the auspices of Virginia would flourish in the western world.

"And therefore, willing to acquit our conscience, and not entail slavery upon our posterity by submitting to the pretensions and impositions of the pretended Proprietors, we the inhabitants of the north and the south sides of Kentucke River, having assembled together, after preparatory notice on the eighth day of June, 1776, and continued to poll till the 15th of the said instant, in order to elect two gentlemen to serve for us in Convention, and by a majority have chosen Captain John Gabriel Jones and Captain George Rogers Clark, and hope your Honorable the Convention will receive them as our delegates from this the western parts of Fin-castle County. And as we sincerely concur in the measures established by the Continental Congress & Colony of Virginia; and willing to the utmost of our abilities to support

the present laudable cause by raising our quota of men, and bear a proportionable share of the expense that will necessarily accrue in the support of our common liberty.

"And that good order may be observed, we proceeded to elect a Committee consisting of twenty-one members, as is already done in West Augusta, and which precedent we rely upon to justify our proceedings to the world; for without law or authority, vice here could take its full scope, having no laws to restrain, or power to control.

"Upon the whole, we cheerfully submit to the authority and jurisdiction of this House, not doubting but you will take us under your protection, and give us such directions by our representatives as you, in your great wisdom, may think best. And your petitioners, as in duty bound, &c.

"Signed by order of the inhabitants,

"Abraham Hite Jr., Clerk.

"Harrodsburg, June ye 15th, 1776."¹²

The second of the papers Jones and Clark carried to the Virginia convention was a petition to it from a *committee* appointed by the Harrodsburg meeting.¹³

¹² Virginia State Library: *Draper MSS.*, 14 S 2; *Illinois Historical Collections*, VIII:11-13.

¹³ Original is in Va. State Library (Box "Letters to Com. of Safety, 1776"); *Illinois Historical Collections*, VIII:14.

CHAPTER IX

VIRGINIA ASSERTS JURISDICTION OVER KENTUCKY

On their journey over the mountains to Williamsburg, Jones and Clark encountered great hardships, which the latter afterward described in an unfinished letter narrating his western experiences, at the request of James Madison, afterward President, and Kentucky's first United States senator, John Brown. Before they could reach the capital, however, they learned that the Virginia convention had adjourned and that the newly created Assembly would not convene until the 1st of October. "We were now," says Clark, "at a loss, for some time what [to do], but concluded that we should wait until the fall session; in the meantime I should go to Williamsburg and attempt to procure some powder for the Kentuckians and watch their interests."

The procuring of this powder was to play a tremendously important part in saving the pioneer people of Kentucky. Upon it depended their very existence—for they had almost none. It was absolutely necessary for procuring their meat supply, upon which they mainly relied for food, and also for defense against the Indians.

Clark's letter continues:

"We parted. Mr. Jones returned to Holston to join the forces that were raising in order to repel the Cherokee Indians, (as they had lately commenced hostilities) and myself proceeded to the Governor of Virginia. Mr. Henry, the governor, lay sick at his seat in Hanover, where I waited upon him. He appeared much disposed to favor the Kentuckians and wrote by me to the Council on the subject. I attended them. My application was for five hundred pounds of powder only, to be conveyed to Kentucky as an immediate supply. After various questions and consultations, the Council agreed to furnish the supply; but, as we were a detached people and not yet united to the state of Virginia, and it was uncertain, until the sitting of the assembly, whether we should be or not, they would only lend us the

ammunition as friends in distress, but that I must become answerable for it in case the assembly should not receive us as citizens of the state.

"I informed them that it was out of my power to pay the expense of carriage and guards necessary for those supplies; that the British officers on our frontiers were making use of every effort to engage the Indians in war; that the people might be destroyed for want of this small supply; and that I was in hopes they would consider these matters, and favor us by sending the ammunition at public expense. They replied that they were really disposed to do everything for us in their power, consistent with their office, which I believed. After making use of many arguments to convince me that even what they proposed was a stretch of power, they informed me they could go no further. An order was issued to the keeper of the magazine to deliver me the ammunition."

The young pioneer's demand involved vastly more than the 500 pounds of powder he asked for. He was virtually demanding that the Council commit Virginia to extending her government over Kentucky, despite the opposition of Henderson & Co., of the powerful Indiana and Vandalia promoters, and of a northern majority of states in the Continental Congress.

The situation of the Council members was really a very delicate one. Doubtless they constituted the proper department of the state government to determine the political question whether Virginia should assert its jurisdiction over Kentucky; but the same question was sure to arise in the Assembly in October, and they were naturally loath to anticipate its decision. Powder was everywhere exceedingly scarce, especially in Virginia,¹ and the Council was likely to provoke a vigorous protest amongst the people should it send 500 pounds of it from the state magazine to the far-away settlers in Kentucky.

On the other hand, the Council members probably feared that, for lack of this powder, Kentucky would be lost, and with it perhaps all Virginia's charter territory west of the Alleghenies; and feared also that the abandonment of the strategically important Kentucky outposts would expose Virginia's long line of inner

¹ In May Capts. George Gibson and William Lynn were sent on a hazardous journey down the Ohio and Mississippi to New Orleans to secure a small supply which they procured and, after great hardships, returned with it to Pittsburgh. (Thwaites' *Revolution on Upper Ohio*, p. 144.)

frontiers to destructive Indian warfare. Clark evidently realized these fears and determined to play upon them. In his narrative letter he said:

"I had, for twelve months past, reflected so much on the various situation of things respecting ourselves [and] continent at large, that my resolution was formed before I left the Council Chamber. I resolved to return the order that I had received and immediately repair to Kentucky, knowing that the people would readily fall into my first plan, as what had passed had almost reduced it to a certainty of success. I wrote to the Council and enclosed the order, informing them that I had weighed the matter and found it was out of my power to convey these stores, at my own expense, such a distance through an enemy's country; that I was sorry to find that we should have to seek protection elsewhere, which I did not doubt of getting; that if a country was not worth protecting, it was not worth claiming, &c. What passed on the reception of this letter I cannot tell. [He says he supposed it was "what might be expected" from "a set of gentlemen zealous in the welfare of their country and fully apprised of what they might expect to take place at Kentucky."²]

"I was sent for. . . . Being a little prejudiced in favor of my mother country I was willing to meet them half way. Orders was immediately issued, dated Aug^t 23^d, 1776, for the conveying those stores to Pittsburgh and there to wait further orders from me."

By this overt act of her Executive Council, Virginia recognized the Kentuckians as her citizens, living within the state and entitled to her protection; but recognition alone could not meet their needs. Although surrounded by overwhelming numbers of savage enemies, they had no law. Every settler determined for himself whether he would serve in the common defense, or refuse to serve at all; whether he would contribute his fair share of provisions or ammunition for those who did serve, or keep them for himself. Plainly all were doomed unless they abandoned Kentucky, or were given a local government with military authority and organization.

We have seen them proposing to set up a provisional county for themselves and appointing Clark and Jones to ask admission to represent it as delegates in the Assembly. On the first day

² *Illinois Historical Collections*,
VIII:214.

that body met, they presented the Kentucky petitions and prayed admission as members. Before the meeting of the Assembly, however, Clark had no doubt consulted with his friends, Colonel Mason and Jefferson—both of whom were members—and posted them about affairs in Kentucky and Virginia's interest in supporting it as a barrier protecting her frontiers against the western Indians. Mason and Jefferson were perhaps the two most influential members of the Assembly, and both of them supported the Kentucky cause. Jefferson was its most active champion in the determined conflict which ensued in the Assembly and proved to be a long and very doubtful one.

The petition for admission of Clark and Jones as delegates was promptly and properly denied; for Kentucky, not being yet a county, had no right to representation. Thereupon a bill was offered, probably by Jefferson, to separate Kentucky from the great western county of Fincastle, of which it was part, and make it a new county. The bill was at once bitterly opposed by three sets of men. One consisted of the promoters of the Transylvania Company—Clark wrote: "Col Henderson, of the purchasers of the Cherokees, being present retarded our business much."³ Another active opponent was the restless and ambitious county lieutenant of Fincastle County, Col. Arthur Campbell—who throughout the Revolution was a troublemaker in Western Virginia. He looked with little favor upon a bill which would deprive him of authority over the largest and richest part of his extensive county.

A third set of opponents, less conspicuous in the contest over the bill, but far more powerful, were the promoters of the Indiana and Vandalia companies. Having failed in London to get confirmation of their pretended titles from the King, and having also failed to secure the adoption of Franklin's or Dickinson's draft of Articles of Confederation, virtually giving Congress power to confirm their titles, the promoters were evidently in a quandary as to the course they should pursue to establish their claims to West Virginia and Eastern Kentucky. Virginia had established a county government over the region embracing "Indiana," and settlers were entering upon lands there under Virginia grants.

³ *Illinois Historical Collections*,
VIII:214.

To determine what course they should pursue to maintain their Six Nation grant, the Indiana Company promoters held a meeting at Pittsburgh. They dared not attempt to oust the intruding settlers by force, and therefore concluded that they would have to assert their claim either in court, or before the Virginia Assembly. In either case it would be necessary to bring forth their long hidden Six Nation deed, or a certified copy of it; for upon it their claim to "Indiana" was entirely based. The original had been for years in the secret keeping of their fellow promoter, Thomas Walpole, the London banker. Accordingly the promoters at their meeting caused a letter to be written to him requesting that it be sent to America "in order that it may be recorded in Williamsburg in Virginia, as the jurisdiction of that colony is now extended and exercised as far west as the Ohio and Courts established, &c."⁴ Walpole seems to have complied by sending an exemplified copy of the long hidden and much misrepresented Indian deed.

On the first day the Virginia Assembly met, this copy was presented by "Thomas Wharton, V. P.," along with "The Memorial of the Proprietors of a Tract of Land on the Ohio called 'Indiana'." After deceptively attempting to show a valid claim, the Memorial says:

"All which will appear manifest, by a Reference to a Copy of the Deed annexed to this Memorial. That your Memorialists having these Facts before them, could not but observe with concern, that the late Convention of Virginia, had by their Resolve of the 24th of June last, laid a Foundation for calling in question among others the Validity of the Title of your Memorialists, to the Lands, so fairly and with so much Justice granted to them, and for Obstructing them in the sale and disposition of their own Property. . . . Under these circumstances your Memorialists confide that the Legislature of the State of Virginia, will not by any Act or proceeding whatsoever, impeach, or in any Respect prejudice the Title of your Memorialists, so well established on the Principles of Reason, Equity and Sound Policy."⁵

For over two months of the Assembly session the bill to create

⁴ Christopher Gist's *Journal*, 245-7.

⁵ Virginia Calendar State Papers, I:273-4.

the County of Kentucky was bitterly contested by all these influential opponents, and a long deadlock over it ensued between the House of Delegates and the Senate. Upon the issue of this legislative contest, it will be found, hung the destiny not only of Kentucky, but of the Revolutionary West, and, indeed, of the United States; for upon the creation of the County of Kentucky depended not only its successful defense, but Virginia's interest in carrying on, single-handed, the war which wrested the whole western country from the British and made the United States great.

At each stage of the legislative contest, Jefferson is found championing the cause of the Kentuckians, and Campbell equally active against it. Because of the exceeding importance of the conflict in Kentucky history, and because, so far as known, the successive steps concerning it appearing in the Assembly records have never been presented in any history of the state, extracts from the journal of the House of Delegates will here be given with occasional bracketed comments:⁶

"October 8, 1776.

"A petition of the inhabitants of the Western posts of *Fincastle* County, was presented to the House, and read; . . .

"Also a petition from the committee of *West Fincastle* to the same purpose.

"Ordered, that the said petitions do lie on the table. . . ."

§

"October 11, 1776.

"On a motion made,

"Ordered, That the petitions from the inhabitants of the western parts of *Fincastle*, and from the committee elected by the said inhabitants, presented to the House on *Tuesday* last, and ordered to lie on the table, be referred to the committee on the State of the Country. . . .

"The House, according to the order of the day, resolved itself into a committee upon the whole state of the country . . . and had come to the following resolution thereupon; . . . [twice read and agreed to],

"Resolved, That the inhabitants of the Western part of *Fincastle* not being allowed by law a distinct representation in General Assembly, the delegates chosen to represent them in this House, cannot be admitted. At the same time, the

⁶ Virginia State Library (Book) reported missing from the Virginia *Journal of House of Delegates*, State Library. pp. 4-87. The Senate Journal was

committee are of the opinion, that the said inhabitants ought to be formed into a distinct county, in order to entitle them to such representation, and other benefits of government. . . ."

§

"October 16, 1776.

"A bill for *the dividing* of Fincastle into two distinct counties, was read a second time, and ordered to be committed to Mr. *Jefferson* and the members for *Augusta* and *Botetourt*. . . ."

§

"October 17, 1776.

"Mr. *Jefferson*, from the committee to whom the bill *For dividing the county* of Fincastle into two distinct counties, was committed, reported, that the committee had gone through the bill, and made several amendments thereto; which he read in place, and afterwards delivered in at the Clerk's table, where the same were again twice read, and agreed to.

"Ordered, That the said bill, with the amendments, be engrossed and read a third time."

§

"October 18, 1776.

"Ordered, That the third reading of the bill *For dividing the county* of Fincastle into two distinct counties be put off till *Thursday* next."

This delay when the bill was almost ready to be passed was a great victory for its enemies and ominous for the Kentuckians. Denying the bill the final third reading was almost equivalent to its defeat. Clark and Jones evidently so considered it, and contemplated giving up the fight and returning to Kentucky. Before doing so, however, they presented a last appeal to the Assembly. The House Journal the next day says:

"October 19, 1776.

"A petition of *John Gabriel Jones* and *George Rogers Clarke*, was presented to the House, and read, setting forth the distressed and defenceless situation of the inhabitants of *Kentucky*, and praying that some forces may be sent to their relief and protection.

"Ordered, That the said petition be referred to the Committee upon the State and Country."

This petition of Jones and Clark, evidently written by Clark, read as follows:

"To the Honourable the Speaker & Gentlemen of the House of Delegates.

"The petition of John Gabriel Jones and George Rogers Clark on behalf of the Inhabitants of the County of Kentuck humbly sheweth that the last Service that lies in their power prior to the return of your Petitioners to their Constituents which will be tomorrow, is to acquaint this Honourable House of their Defenceless State, and imploreing their immediate Protection by sending such Forces as they think necessary. And they cannot but Observe how much it is to the Interest of Virginia to prevent the Inhabitants from abandoning that settlement and how necessary and advantageous it will be to the publick in Case of an Indian War, an event much to be Feared, with the Kiccapoos, Picts, and other Nations of Indians lying West of the River Ohio, as their Situation is so contiguous to those Nations that the Seat of War may be carried thither, and thus Secure the Frontiers Effectually at once, Add to this that in this Service they can save the Public at least one-half of what an Army must Cost to be levyed any where else on the Frontier Counties, or any part of America. Perfectly satisfyed they have done all that laid in their Power, and happy therefore Submitting their Case to this Honourable House no ways doubting but they in their great Wisdom and goodness will immediately send Aid to their Relief, and your Petitioners &c.
Friday Octr 1776."

This last appeal of the young Kentuckians seemed futile, at least for a time; for five days later the House Journal says:

"October 24, 1776.

"*Ordered*, That the Committee of Propositions and Grievances be discharged from proceeding upon the petition of sundry inhabitants of the county of *Fincastle*, and that the same be referred to the Committee upon the State of the Country."

The next day the bill was completely "ditched" by the following action of the House:

"October 25, 1776.

"The order of the day, for the third [reading] of the bill *For dividing the county of Fincastle into two distinct counties*, was read and discharged, and the said bill directed to be read in the usual course of proceedings."

To one who is familiar with legislative procedure and the importance of a bill holding its place in the calendar, the discour-

aging effect of this action of the House will be apparent. Next day, however, Jefferson presented it again.

"October 26, 1776.

"Mr. Jefferson, from the Committee of Propositions and Grievances, presented, according to order, a bill *For dividing the county of Fincastle into two distinct counties*. . . . [and other bills]; which were severally read the first time, and ordered to be read a second time."

After four days the bill had a second reading and was referred to a new committee, including its most active enemy in the Assembly, Col. Arthur Campbell, of Fincastle:

"October 30, 1776.

"A bill *For dividing the county of Fincastle into two distinct counties*, was read a second time, and ordered to be committed to Mr. Jefferson, Mr. Simms, Mr. Bullitt, the members of *Fincastle, Augusta, and Botetourt*.

"Ordered, That it be an instruction to the said committee, that they receive a clause, or clauses, for laying off *Kentucky* into one distinct county."

After twenty days more of cross-pulling, the friends of the bill were cheered by the following action of the House:

"November 19, 1776.

"Ordered, That Mr. Mason, the members for *Frederick, Hampshire, and Bedford*, be added to the committee to whom the bill *For dividing the county of Fincastle into two distinct counties*, was committed. . . ."

§

"November 23, 1776.

"Mr. Jefferson, from the committees to whom the bill *for dividing the county of Fincastle into two distinct counties*, was referred, reported, that committee had, according to order, had the said bill under their consideration, and had made several amendments thereto; which he read in his place, and afterwards delivered in at the clerk's table, when the same were again twice read, and agreed to.

"Ordered, That the bill, with amendments, be engrossed and read a third time."

Then, on November 25, the House took the following action: the bill dividing Fincastle was passed and Colonel Campbell was directed to carry it to the Senate for its approval:

"November 25, 1776.

"An engrossed bill, *For dividing the county of Fincastle into two distinct counties*, was read a third time.

"*Resolved*, That the said bill do pass, and that the title be *An act for dividing the county of Fincastle into three distinct counties, and the parish of Botetourt into four distinct parishes*.

"*Ordered*, that Mr. Campbell do carry the same to the Senate for their concurrence."⁷

§

"November 28, 1776.

"A message from the Senate by Mr. Bland.

"Mr. Speaker,

"The Senate have agreed to the bill entitled *An act for dividing the county of Fincastle into three distinct counties, and the parish of Botetourt into four distinct parishes*, with amendments, to which they desire the concurrence of this House; and he delivered the same in at the bar, and then withdrew."

Then followed entries in the House Journal showing a deadlock between the two houses of the Assembly:

"November 30, 1776.

"The House took into consideration the amendments proposed by the Senate to the bill intituled *An act for dividing the county of Fincastle into three distinct counties, and the parish of Botetourt into four distinct parishes*.

"The first amendment being twice read, was, on the question put, agreed to by the House.

"The second and third amendments being also twice read, were, on the question severally put thereon, disagreed to by the House.

"*Ordered*, That a message be sent to the Senate, to acquaint them the House have agreed to the first amendment by them proposed to the said bill, and have disagreed to the two last amendments, and to desire they will pass the bill with the amendments agreed to; and that Mr. Campbell do carry the said message."

⁷ Next day, however, the House Journal says:

"November 26, 1776.

"An engrossed bill, *For dividing the county of Fincastle into two distinct counties*, was read a third time; and on the question put that the said bill do pass,

"It passed in the negative,

"*Resolved*, That the said bill be rejected."

The explanation of this resolution, apparently conflicting with the passage of the bill the day before, seems uncertain.

§

"December 5, 1776.

"A message from the Senate by Mr. Ellzey.

"Mr. Speaker,

"The Senate do insist on the amendments by them proposed to the bill intituled *An act for dividing the county of Fincastle into three distinct counties, and the parish of Botetourt into four distinct parishes*; also to the amendments by them proposed to the bill intituled . . . [refers to Warm Springs] . . . and he delivered the same in at the bar, and then withdrew."

§

"December 6, 1776.

" . . . The House took into consideration the message from the Senate insisting on the amendments proposed to the bill intituled *An act for dividing the county of Fincastle into three distinct counties, and the parish of Botetourt into four distinct parishes*; and the said amendments being again read,

"Resolved, That this House do insist on the disagreement to the said amendments, and that Mr. Campbell do acquaint the Senate therewith.

§

"December 7th, 1776.

"A message from the Senate by Mr. Cabell.

"Mr. Speaker:

"The Senate do recede from their amendments to the bill intituled *An act for dividing the county of Fincastle into three distinct counties, and the parish of Botetourt into four distinct parishes*, to which this House disagreed, and have passed the said bill without the amendments."^s

Thus was created the first government of Kentucky. To one who realizes the national significance of this event, it must seem strange that it has rarely been mentioned in history, save as a bare chronological fact concerning Kentucky. It has never received the emphasis demanded by its great importance as an essential link in the chain of determining events which extended the boundaries of the United States from the Alleghenies to the Mississippi and later to the Pacific.

For his services in securing Kentucky's first government, Clark has often been declared the "Founder" of the commonwealth. Part credit, however, although a minor part, is due to his fellow delegate, Jones, whose untimely death soon afterward

^s The bill is set forth at length in Hening's *Statutes at Large*, IX:257.

has doubtless caused his services to be overlooked. After the passage of the county bill, he and Clark learned that the powder still lay at Pittsburgh and they went there to take it to Kentucky.⁹ With seven hands, they carried it down the Ohio in a small boat; but, being pursued by Indians, landed near the mouth of Lime-stone Creek. There Clark's letter says:

"We hid our stores in four or five different places, at a considerable distance apart; and, running a few miles lower in our vessel, set it adrift and took by Land for Harrods Town in order to get a force sufficient and Return for our stores . . . we passed by the Blue Lick; and the third day from our leaving the River got to Hinkstons Cabbin on the West Fork of Licking Creek, While we ware resting ourselves, four men came to us that had been Exploreing Land in that quarter and informed of the situation of affairs in Kentucky; that very little damage had yet been done, that . . . Jn^o Todd was with a party some whare in that part of the Cuntrey; that if we could find him we should be strong Enough to Return to the River; but this was uncertain. As several of our party was much fatigued, we agreed that my self and two others should proced to Harrods Town for the proposed party; that Mr Jones and the Rest should Remain in that neighborhood untill our Return. In a short time after I had set out, Co^l Todd arrived at the same place and after some consultation concluded that they ware able to go to the River and bring on the amunition & other stores and accordingly set out with Ten men and between the Blue Lick and the River on 25 Dec^r met the Indians on our Trail and got totally routed. Mr Jones was killed and three others got killed and taken prisoners. fortunate for us the prisoners did not discover our Hidden stores to the Indians. The party sent from Harrods brought them safe to that place which gave universal Joy."¹⁰

The small powder supply was received at Harrodsburg none too soon; for throughout 1777 savage war was to rage in Kentucky with great fury. By far the most complete accounts we have of events there during that distressful year are contained in the diaries of two of the pioneers. One, written by George Rogers Clark, begins Christmas day, 1776, and continues to March 30, 1778. The other was kept by John Cowan, one of the

⁹ Clark had written the Kentucky people to send for it, but his letter miscarried. *Illinois Historical Collections*, VIII:214.

¹⁰ *Illinois Historical Collections*, VIII:214-5.

original Harrodsburg settlers,¹¹ and covers only part of the year 1777, from March 6th to September 17th. As we have no other accounts so reliable and connected of Kentucky events during the important period these two diaries cover, they will be here quoted, with occasional comments. Cowan's diary is much the less accessible, and will therefore be given more nearly in full; while Clark's entries for dates preceding and following Cowan's, and some entries supplementing Cowan's omissions, will also be given.

[Clark.] "December, 1776,

"25 The men going to the Ohio for powder met on the waters of Licking Creek by Ind^s and defeated. Jno G Jones, Joseph Rogers, Wm Graden & Josiah Dixon were killed.

"29 A large party of Indians attacked McClellans Fort and wounded Jno McClelland, Cha^s White, Rob^t Todd & Edw^d Worthington, the two first mortally.

January, 1777

"6 Jno McClellan died of his wounds.

"30 Moved to Harrodsburg from McClellans Fort. [McClellans had to be abandoned because of threatened Indian attack and to strengthen the remaining posts.]

"March

"5 Militia of the county embodied. [Military commissions had come from the Virginia governor, naming Clark Major and Daniel Boone, James Harrod, Benjamin Logan and John Todd captains.]¹²

"6 Thomas Shore & Wm Ray killed at the Shawnese Spring."

[Cowan.] "March 6th, 1777.

"The Indians killed Billy Ray and Thomas Shore at the Shawnee Springs. A party went out to the place in the evening. They buried Ray and Shore, and found another man alive and unhurt under a log in the cane. James Ray [afterwards General Ray, then fifteen years old] made his escape and alarmed the town, and the people worked all night repairing the fort.

"March 7th. The Indians attempted to cut off from the fort a small party of our men—a few shot exchanged. The loss on our side, some cattle killed and horses taken, and four men wounded. Their loss was one killed and scalped and several supposed wounded. This attack was a little after

¹¹ Collins' *Kentucky*, II:517.

48 J 10. Clark's diary makes no

¹² Levi Todd's Narrative; Draper, mention of his commission.

sunrise, and a few minutes after, a Mr. Thos. Wilson and his family had escaped into the fort from one of the cabins built in 1774. The Indians burnt the cabins."

[Clark.] "8 Brought in corn from the diff^t cribs until the 18th day." [Apprehending Indian attack they were getting in provisions ready for it.]

[Cowan.] "March 9th. Ebenezer Corn arrived from the Ozark."

[Clark.] "9 Express sent to the Sett[lemen]t."

That meant dire need of men or supplies, for no man could be safely spared. That perilous journey through the Indians and over the mountains to the Holston settlements for help could be the subject of a romance beside which many far more celebrated tales of heroism along the Atlantic seaboard seem tame indeed.

"Ebenezer Corn & Co arr[ive]d from Capt. Linn on the Mississippi."

[Cowan.] "March 13th. Ebenezer Corn set off for the settlement. [Holston.]

"March 18th. Butler [the assumed name of Simon Kenton¹³] and Myers arrived from Boonesborough, with accounts of one man killed and another wounded. On the 7th inst. a small party of Indians killed and scalped Hugh Wilson near the fort, and escaped."

[Clark.] "19 Archibald McNeal died of his wound rec^d 7th inst."

[Cowan.] "March 28th. The Indians made an attack—the stragglers about the fort to the amount of 30 or 40—in which they killed and scalped Garrett Pendergrass, and took prisoner and killed Peter Flinn.

"April 3rd. Alarm about daylight."

[Clark.] "6 Stoner arrived with news from the Sett^t."

[Cowan.] "April 8th. News of Jacob Huffman killed by Cherokees at Rye Cove.

"April 9th. Wednesday. Indians about.

"April 10th. Todd and Calloway elected Burgesses." [These were the two first representatives to the Virginia Legislature from the new County of Kentucky.]

[Clark.] "16 Doran Brown & Co. arrived from Cumberland River.

"19 Jn^o Todd and Rich^d Calloway elected Burgesses.¹⁴ Jas. Barry married to widow Wilson."

¹³ Marshall's *Kentucky*, I:39-40.

¹⁴ *Draper MSS.*, 13 S 181, tends to show that Clark's date of the

election was nearer correct. It says: "Ky. election, which should have been according to law, on the first

Wilson, we have seen, was killed and scalped only one month before. The widow's waiting was not long. It must not, however, be thought therefore that her remarriage evidenced indifference about the loss of her first husband. The fact was that in this pioneer community, a widow with a number of small children was in very real need of the help and protection of a husband, and a generous sympathy for her, in her helpless condition, was no doubt often the cause of a proposal of marriage and naturally won the affection of the woman. Certain it is that such early remarriages were common amongst them. The proportion of young children appears in Cowan's entry of May 1.

[Cowan.] "April 25th. Linn and Moore set out for the Mississippi."

This entry about Linn and Moore is a very significant one. Clark sent them as spies to learn the enemy's strength in the Illinois, directing them to go "as hunters who had come to dispose of some beaver skins." It was his first step in preparation for his expedition to wrest the country north of the Ohio from the British. In view of the desperate straits of the pioneers at this time, it seems amazing that he should have thought so bold an offensive feasible.

[Cowan, 25th.] "Fresh signs of Indians seen at 2 o'clock. They were heard imitating owls, turkeys, &c. At 4 o'clock sentry spied one, and shot at three soon after.

"April 28th. Indians seen within two hundred yards of the fort. A party went out, but nothing done.

"April 29th. The Indians attacked the fort and killed Mr. McConnell.

"April 30th. Butler [Simon Kenton] arrived from Boonesborough, and informed us that on last Thursday a body of Indians, in number 40 or 50, attacked that place, and killed and scalped Daniel Goodman, wounded Daniel Boone, Isaac Hite, John Todd, and Michael Stoner.

"May 1st. Scattered parties of Indians seen at a distance. A return was made of the people in the fort, as follows:

Tuesday in April, 1777, but that day had passed before the commissioners for appointing the justices and sheriff were received, and the sheriff did therefore advertise and held

the election the 18th. day of April at Harrodsburg, where every free landholder in the country gave his vote." See above references for further details.

"Census of Harrodsburg, May 1, 1777.

Men in service	81
Do, not in service	4
Women	24
Children above 10 years old	12
Children 10 years	58
Slaves over ten years	12
Negro children under 10 years	7

Total

198

"May 4th and 6th. Indians seen several times these two days, and fired at the distance of two hundred yards.

"May 12th. Messrs. Squire Boone and Jared Cowan arrived from the settlement.

"May 16th and 18th. Indians seen and heard."

[Clark.] "18 McGarry & Haggin sent expresses to fort Pitt."

[Cowan.] "May 23d. Captain Todd, Calloway and company, set off for the settlement."

[Clark.] "23 A large party of Indians attacked Boonsborough Forts kept a warm Fire until 11 O'clock at Night began it the next Morning & kept a Warm Fire until Midnight attempting several Times to burn the Fort 3 of our men were wounded, not mortally The Enemy suffered considerably."

[Cowan.] "May 25th. Indian snapped his gun at a man within 40 yards of the fort, at dusk."

[Clark.] "26 A party went out to hunt Indians one wounded Squire Boone & escaped."

[Cowan.] "May 27th. An alarm this morning. An express arrived from Logan's and informed us that Boone's fort was attacked on Friday morning last and a brisk firing kept up until Sunday morning, when they left the place.

"June 2d. Indians seen round the fort. An express arrived from Logan's, and says that the Indians attacked that place last Friday, and killed William Hudson and wounded John Kennedy and Burr Harrison; and that during the heavy firing at Boonesborough, 23d and 24th of May, there were but three men wounded, and hoped not mortal; that the Indians tried hard to burn the fort, but were prevented with considerable loss.

"June 5th. Express returned from Boonesborough and says that Tuesday last they went within 1½ miles of the fort, and found a large body of Indians there and did not venture in.

"Capt. Harrod and Elliott set off to meet Bowman and company.¹⁵

"Glenn and Lard arrived from Cumberland and say Linn and Moore were safe embarked in that river on their way to Ozark.

"June 20th. Coburn arrived from Logan's, and says Burr Harrison, who was wounded the 30th of May, died of his wound the 13th inst. Daniel Lyon, who parted with Glenn and Lard on Green River to go to Logan's fort, had not come in yet. A part of a leather hunting-shirt was found, which was thought to be his. Indians seen today, and much sign.

"June 22d. Linn and Moore arrived from Kaskaskia with accounts favorable as could be expected. This evening, the Indians killed and cut off the head of Barney Stagner, above the big spring. (Stagner had taken his horse out to graze, and had been often warned not to venture so far from the fort.)

"June 25th. Expresses arrived from Logan's and Boonesborough, and say that the Indians did not do much damage at Boonesborough, except killing cattle, and that Logan, who set out for the settlement on the 6th. inst., has returned; and it is expected that Col. Bowman is on his march out. A party of Indians (30) crossed Cumberland last Saturday, going towards the settlement; and Todd and Calloway and Harrod and company had got in safe.

"July 6th. Killed a buffalo bull at the fort. (He had come up with the cattle.)"

[Clark.] "9 Lieut Linn married great Merriment."

[Cowan.] "July 11th. Capt. Harrod returned; says Col. Bowman is on his march here.

"July 14th and 15th. Reaped wheat. (The first ever sown in Harrodsburgh. It was raised in a field west of the fort of not more than four acres.)

"July 16th. Capt. Harrod with a company set off to meet Bowman and inform him of the state of the fort.

"July 26th. McGary arrived from Fort Pitt. No prospect of peace or recovery of horses taken by the Indians.

"Harrod and his company returned, and say Colonel Bowman parted with them at the forks of the road, and is gone to Boonesborough.

"July 28th. Express arrived from Logan's and says 6 young men, part of Col. Bowman's company who had left

¹⁵ Col. John Bowman was coming out to Kentucky with a commission as county lieutenant.

him, were attacked on Monday going to Logan's, and that Andrew Gressom was killed and scalped, and Jones Manniffee and Samuel Ingram wounded, but not mortally."

[Clark.] Express ret^d from Pittsburgh [evidently McGary and Haggin.]

"August 1. Col Bowman arr^d at Boonsborough.

"5 Surrounded 10 or 12 Ind^s near the Fort killed 3 and wounded others The plunder took was sold for upwards of £70

"11. Jn^o Higgins died of a lingering Disorder

"25. Ambrose Grayson killed near Logans Fort & wounded 2 others Ind^s Escap^d

"26. Col Bowman and C^o arrived at Logans Fort

[September] "2 Col. Bowman & C^o arr^d at this place. Court held &c" [This was the first court held in Kentucky.]

[Cowan.] "Sept. 2d. Court held at Harrodsburgh, and officers sworn into commission.

"Sept. 7th and 9th. Indians seen and shot at—no harm done."

[Clark.] "8 27 Men set off for y^e Sett^t.

[Cowan.] "Sept. 11th. Thirty-seven men went to Capt. Bowman for corn; while shelling they were fired on by Indians; a skirmish ensued, and our men kept the ground until reinforced from town. We found two Indians dead and much blood. Eli Jared was killed, and six others wounded, one of whom died that night. The others, I hope, will survive."¹⁶

[Clark.] "12 Dan^l Bryan died of his Wounds rec yesterday

"17 Express sent to the Sett^t

"Mrs Saunders died

"23d Express resive from Boons and say that on the 13th Captⁿ Smith arive their with 48 Men 150 more on the March for this also, with an Ac^t that General Washington had defeated How Joyfull News if true."¹⁷

¹⁶ *Draper MSS.*, 26 C C 55; also *Kentucky Yeoman*, Sept. 18, 1845.

¹⁷ *Draper MSS.*, 48 J 12; *Illinois Historical Collections*, VIII:20-3.

CHAPTER X

EXPEDITION TO CAPTURE KASKASKIA

In the world's history it will be hard to find a region which was more distinctly won by military effort than our Revolutionary West. As a recent writer has truly said, it was not won by "the covered wagon"—by peaceful penetration of immigrants—but by war. Successful warfare preceded and opened the way for the immigration. No adequate history, therefore, of the United States, or of the Revolutionary West, or of Kentucky, can be written without taking particular account of the military events in the West during the Revolutionary war. Yet many historians have not done so. Indeed, some recent writers treat wars as being of comparatively small significance in the evolution of nations.

Of two extreme schools of historians, one inclines to emphasize the personal, political and military factors of history; while the other stresses the physical, economic and social ones. Some writers of this last school will incline to explain the westward movement by geographic, climatic and other physical conditions, and by natural laws controlling economic and social changes; while the interest of writers of the opposite school finds expression in Carlyle's famous dictum: "The history of what man has accomplished in this world is, at bottom, the history of the great men who have worked here." Between these two extremes a more just view will regard history as a moving picture of the past, in which all these features—each according to its relative and constantly varying importance in the general movement of the drama—will at different times be given main attention.

As no one can understand the western movement before and during the Revolution without knowing, for example, the position, character and influence of the Appalachian Mountains and the western rivers, or the exhaustion of soil in many regions east of these mountains, and the inviting fertility of the West, or the

presence of warlike Indians north of the Ohio and south of the Tennessee, and their absence between those rivers; so, on the other hand, no one can understand the westward movement without knowledge of the political, military and diplomatic struggles for the western country, and of the men and motives directing the opposing forces. To ignore, or unduly subordinate, the personal element, or these political, military and diplomatic events—in all of which personality often plays a controlling part—would not only deprive history of much of its human interest, and nations of the priceless examples of their heroes, but would often leave out factors of paramount influence on national progress.

To appreciate Kentucky's part in the Revolutionary war one must consider not only what occurred there, but elsewhere; for it will be found that the changing economic conditions and political conflicts in other sections of this country and foreign diplomacy frequently influenced and sometimes controlled events in the West.

By glancing at the map of the United States, the reader will see that the British had three ways of attacking the United States: One way was to land troops along the Atlantic seaboard and carry on the war there; another way was to proceed with a force from Canada and endeavor to split off New England from the rest of the states by a stroke down Lake Champlain and the Hudson to join a British force sent up from New York City; and a third way of attack was to use the King's western Indian allies and carry on a savage war against the frontiers of the colonies from the great northern lakes to Georgia.¹

Reading of the daily events recorded by Cowan and Clark—the ceaseless Indian attacks and the many settlers killed—one realizes that the aim of the British war policy in the West was nothing less than extermination. How dangerously near it came to success appears from the fact that by the end of 1777 there were but three small forts left in Kentucky—Harrodsburg, Boonesborough, and St. Asaphs—and only 102 men and boys able to bear arms.²

¹ An attack on the American frontiers by way of the Mississippi has been suggested, but would have been utterly impracticable in that day of difficult upstream navigation.

² Butler's *History of Kentucky*, p. 95; Marshall's *Kentucky*, I:55. Cf. *Draper MSS.*, 48 J 10, Levi Todd's statement, March, 1777; McElroy's *Kentucky in the Nation's History*, 147.

As the commanding officer, Major Clark early realized that defensive warfare by this handful of pioneers against thousands of Indians was utterly hopeless. He knew the British from their posts north of the Ohio equipped the savages and sent them to war, and he believed the only way to stop their raids would be to reduce those posts. It was this belief which led him to send Linn and Moore as spies to the Illinois towns. Informed by them of the situation and British strength there, he set off, on October 1, 1777, for Williamsburg, to lay his bold plan of attack before Governor Henry.

At the capital, he said, he "remained a considerable time settling the Ac^{ts} of the Kentucky Militia and making Remarks of everything I saw or heard that would lead me to the knowledge of the disposition of those in power."³ In December he "proposed the plan to a few gentlemen, they communicated it to the Governor."⁴ Those gentlemen were Thomas Jefferson, George Mason and Chancellor George Wythe.⁵ Clark only asked seven companies of fifty men each—in all, 350 men.

How wild the plan must at first have seemed may be realized when one understands the great remoteness and number of the enemies to be attacked, and the dreadful economic and military condition of the states at that time. It was a most gloomy period for the American cause. Washington, with his half-clothed and half-starved little army, was undergoing the dreadful hardships of Valley Forge. Men were daily deserting him; dissension was rife; the Conway Cabal was trying to overthrow him and make the politician-general, Gates, commander-in-chief; the states were nearly exhausted, and they were still without a single ally. Westward, the frontiers from Pennsylvania to Georgia, were being harried by the savages under Tory leaders. Virginia, with her long frontier line, often found it impossible to send sufficient men to defend it. Under these circumstances, except to men of broad vision, it must have seemed folly to send sorely needed men over a thousand miles through a wilderness to attack an enemy many times more numerous than themselves.

Fortunately, however, Governor Henry and his advisers were broad-visioned men, who stood in the very forefront of Virginia's

³ *Illinois Hist. Collections*, VIII: 218.

⁴ *Id.*

⁵ *Jefferson Papers*, Lib. of Congress, Series 2, Vol. 67, No. 99.

array of great men. After hearing Clark they saw that the expedition he proposed might succeed; and we may be sure they foresaw its mighty consequences if it did succeed. His narrative letter said:

"On the 10th of Decemb^r I communicated my Views to Gov^r Henry. at first View he apper^d to be fond of it, but to Detach a party off at so great a Distance (although the service performed Might be of great utility) appeared Daring and Hazardous, as nothing but secrecy would probabl[y] give sucksess to the Enterprise. To lay the Matter before the assembly then seting would be dangerous, as it would soon be known throughout the Frontiers and probably the first prisoner taken by the Indians would give the allarm, which would end in the certain distruction of the party He had several private Counsills composed of select gen^{tn} after making every Inquirey into my proposed plan of opperation (and particularly that of a Retreat in case of Misfortune, which I intended across the Mississippi into the Spanish Territory) the Expedition was resolved on, and as an Incouragement to those that would Ingage in S^d service an Instrument of writing was sign[ed] wharein those gen^{tn} promised to use their Influanace to procure from the assembly 300 Acres of Land Each in case of sucksess the Gov^r and Councill so warmly Ingaged in the sucksess of this enterprise that I had very little trouble in geting matters adjusted, and on the 2 Day of Jn^y 1778 Received my Instructions and Received 1,200£ for the use of the Expedition and [an] order on pittsburgh for Boats amunition &c.

"finding from the Governors conversation to me in Gen^l upon the subject that he did not wish an implicit attention to his instructions should prevent my executing any thing that would manifestly tend to the good of the publick,⁶ on the 4th I set forward Cloathed with all the authority I wished for,"⁷ and a commission as lieutenant-colonel.

⁶ *Illinois Historical Collections*, VIII:38, Henry to Clark.

⁷ *Illinois Historical Collections*, VIII:219. Twelve hundred pounds in Virginia paper money, and the 350 men Clark was authorized to enlist, contrast strongly with the estimates made three months later of the men and money needed for an expedition against Detroit planned by a committee of Con-

gress. Three thousand troops were deemed necessary, and Col. George Morgan, Indian agent for Congress at Pittsburgh, reported the articles needed and estimated expenses for providing only half that number, or 1,500 men, for a twenty-day march from that place into the enemy's country, as follows: "Flower, 609,973 pounds; 600 pack horsemen, . . . 120 bullock drivers; cattle

Here let us consider the situation of the British north of the Ohio against whom Clark was proposing to march with 350 men. Detroit, with 2,000 people,⁹ mainly Canadian French, was the center of British western military operations during the Revolution, and was the headquarters of the lieutenant governor and commander of the western country, Col. Henry Hamilton. He was an experienced soldier, with a long record of service in the British armies in France, in Canada during the French and Indian war, and in the West Indies.¹⁰ He was given large civil powers, and almost complete discretion in the conduct of the western war and in the management of the Indians.

At Vincennes, on the eastern bank of the Wabash, were perhaps eight hundred or a thousand people, also mainly French. Late in 1778 Hamilton enlisted 250 men there, and reported there were 300 "used to fire arms as hunters."¹⁰

Extending for over a hundred miles along the eastern side of the Mississippi, from the mouth of the Missouri southwardly to the mouth of the Kaskaskia River, lay a strip of rich bottom land, from four to eight miles wide, known as the "American Bottom." Near its northern end and nearly opposite St. Louis was Cahokia, with a population of some three hundred whites and eighty negroes. Almost fifty miles south of it lay the town of Prairie du Rocher, with nearly two hundred people, about half slaves. At the southern end of the "American Bottom" was the chief town, Kaskaskia, which lay on the north side of the Kaskaskia River and contained nearly a thousand people, about half slaves.¹¹

The white inhabitants of all these towns were nearly all French—most of them of course of lower grades, but some who had means and comfortable homes and were people of more refinement than was usually found in such remote communities. Detroit, Vincennes and Kaskaskia all had forts of no great strength and militia garrisons.¹²

2,440 head, at 300 lbs. net," not including "carriage of ammunition, tents, tools, hospital stores, artillery, nor officers' baggage;" and the cost £182,000, Virginia money. (*George Morgan's Letter Book*, Carnegie Library, Pittsburgh.)

⁸ *Michigan Pioneer Collections*, IX:469; X:317-26.

⁹ Thwaites & Kellogg's *Revolution on the Upper Ohio*, p. 135.

¹⁰ British Museum Addl. MSS. 24320.

¹¹ *Illinois Historical Collections*, II:xv-xvi.

¹² II, *Illinois Historical Collections*, xiii.

From Governor Henry, Clark received two sets of written instructions. The first, which was public and meant for deception, simply directed him to enlist his men "to act as militia under your orders. They are to proceed to *Kentucky* and *there* to obey such orders & Directions as you shall give them for three Months after their arrival at that place, but to receive pay &c in case they remain on Duty a longer Time."¹³ The success of the expedition plainly depended on preserving secrecy as to its objective—Kaskaskia—and not a man, either officer or private, knew that he was to be taken beyond Kentucky.¹⁴

The secret instructions closely followed the plan Clark had outlined to Governor Henry in a letter which is still extant. It fully explained conditions at Kaskaskia, his proposed method of attack, the policy he designed pursuing to win over the French inhabitants and Indians, and foretold with remarkable accuracy the results he anticipated. The letter is copied in full in the appendix.¹⁵

On the day that Governor Henry gave these two sets of instructions he wrote General Hand, the Continental commander at Fort Pitt (Pittsburgh) as follows:

"Williamsburgh, Jan 2^d, 1778.

"Sir—

"I was favored with your two last letters which shall have my attention.

"I have to request that you will please to furnish Major G. R. Clark with boats sufficient for conveying seven companys of militia on an expedition of great consequence. Besides the immediate advantages arising from the success of it, the consequential benefits will be many. A good understanding with [New] Orleans is a desirable object. And I must entreat you, Sir, to give Major Clark every assistance he may want. The boats I hope will not long be wanted; & the use of them, & every other thing furnished by you will be amply compensated by the Major's success, which I beg leave to assure you I am most anxiously concerned for. I refer you to that gentleman for an explanation of the errand on which he goes. It is needless to inform you how neces-

¹³ *Illinois Historical Collections*, VIII:36.

¹⁴ See author's *George Rogers Clark*, pp. 50-2.

¹⁵ Post pages, Appendix E, *Illinois Historical Collections*, VIII:34.

sary it is that the whole affair should be kept impenetrably secret. I have the honer to be, Sir, Y^r obedient hble. Serv^t
P. Henry.”¹⁶

Shortly afterward Governor Henry wrote Colonel Clark, saying:

“Colo David Rogers is to go to New Orleans, on the Business of Trade I mention’d to you, & I have opened the secret Nature of your Expedition to him, as it was necessary for his safety. . . . Proceed as you find the Interest of your Country directs, when you get to the place you are going to. What I have in View is that your operations should not be confin’d to the Fort & the Settlement at the place mention’d in your secret Instructions [Kaskaskia] but that you proceed to the Enemy’s Settlements above, [Detroit] or across [Vincennes] as you may find it proper.”¹⁷

On receiving the governor’s instructions Clark chose the captains and lieutenants for his expedition and began recruiting. His diary says:

[January 2nd] “Appoint W B Smith Majr. he is to raise 200 men [on the Holston] and meet me at Kentuck last of March.

“3. Advance to Majr Smith 150 £ for s^d purpose.”

Clark’s first choice for a captain was a man of whom every American boy will like to know. The diary says: “found my old friend L[eonard] Helm at Mr Floyds. . . . oppointed him to raise a company and paid him wages for past service.” Helm was a rugged, fun-loving, rather old man, with a keen mind and great common sense, absolutely trusty and wonderfully fearless.

Clark’s next appointment was of Joseph Bowman as a captain. Bowman proved a most valuable officer of the “Illinois Regiment,” as Clark’s little force came to be called, and after a time became its major. His brother Isaac was made a lieutenant. Clark’s diary shows he also appointed as captains John Bayly and William Harrod, brother of the founder of Harrodsburg and a seasoned frontiersman, and as lieutenants, Ben Linn, Samuel Moore, and Abraham Chapline.

All these officers found their recruiting strongly resisted, the

¹⁶ *Illinois Historical Collections*, VIII:36-7.

¹⁷ *Id.* 38.

people protesting against men being taken to serve in far-away Kentucky, when they were so much needed nearer home. "Not knowing my Destination," said Clark, "they combined and did everything in their power to stop the men that had enlisted and set the whole frontier in an uproar. . . . In the whole I had about one hundred and fifty Men Collected [at Pittsburgh] and set Sail for the Falls" of the Ohio.

He had sent expresses for Major Smith to join him with his two hundred Holston troops at the mouth of the Kentucky River, and confidently expected him to do so; but on arriving there, he said:

"You may easily guess at my mortification on being informed that he had not arrived; that all his men had been stopt by the incessant labours of the populace, except part of a company that had arrived under Command of one Cap^t Dillard, Some on their march being threatened to be put in prison if they did not return. This information made me as Desperate as I was before determined. . . . I was sensible of the impression it would have on many to be taken near a thousand [miles] from the Body of their Country to attack a People five times their number, and merciless tribes of Indians, their Allies and determined enemies to us."¹⁸

On his way down the Ohio, Clark learned that France had become our ally against Great Britain, news which he soon afterward used with tremendous effect.¹⁹ Arriving at the head of the Falls, he said that being "Joined by a few of the Kentuckians under Col^o Montgomery, to stop the desertion I knew would ensue, on [the] Troops knowing their Destination, I . . . encamped on a small Island." It was called "Corn Island," and contained about "seven[ty] acres."²⁰ The Ohio is here about a mile wide, and, for a stretch of two miles below the island, rushes in a twisting course between and over jagged rocks, dropping in all some twenty-six feet. Navigation is practicable only during high stages of the river, and even then is dangerous and requires experienced and skillful pilots.

Clark's letter continues:

¹⁸ *Illinois Historical Collections*, VIII:117-8.

¹⁹ Campbell to Clark, June 8, 1778 (Id. p. 45).

²⁰ "Seven acres" in Clark's Memoir Letter (Id. 122) should be sev-

enty. Fleming's *Journal* (Draper MSS., 2 ZZ 75) says "about fifty acres." See also Hutchinson's description and map, English's *Conquest of the Northwest*, 135.

"On the arrival of Col Bowman, part of the militia, and several Gentⁿ of the Cuntry we found on Examination that we ware much weaker than expected. . . . Under those circumstances we could not think of leaving the posts of Kentucky defenseless that it was better to Run a great Risque with one party than to divide our forces in such manner as to Hazard the loss of boath; of course we agreed to take but one compleat company and part of another [in all about sixty men] from Kentucky, expecting they would be replaced by troops we yet expected from Maj^r Smith."²¹

For nearly one hundred and fifty years the number of Kentucky pioneers who joined Clark's expedition has been unknown, but fortunately a letter in the possession of Mr. Morton V. Joyes, of Louisville, gives the number—"about 60." It was written from Harrodsburg by Capt. John Todd, who was at the Falls when the men enlisted, and within a week after he left there. It appears in full in the footnote below.²²

²¹ *Illinois Historical Collections*, VIII:122.

²² With Mr. Joyes' permission it is here given in full:

"Harrodsburg, 29th June 1778
(Monday)

"My dear Sir,

"I have been hitherto so assiduous in corresponding with my friends (if it may be called corresponding, where the writing is all on my part) that if an opportunity escaped without a letter they would grieve in supposing I had departed this Life.—

"Time has been here that dearth of News would shorten a Letter; I think just the reverse will shorten mine never did new Occurrences so crowd one another as does now in this Country. too numerous to relate & too important to relate concisely— Take the Heads thus. 1st. Col. Clark has arrived. 2. We have spared him about 60 men to make a Stroke at Cascasky. a garrison of about 30 men & 12 families is Settled at the Falls which I left last tuesday. Our Corn &c is growing finely, Capt. Boone has run

away from the Shawanese & arrived with abundance of News. &c &c. Indians appear frequently among us & generally of late unsuccessful We have killed 3 or 4 lately without loss except 2 wounded who will soon recover. I try to persuade myself that my presence is unnecessary in your Country—no law Business, Expect, If so I would content myself here till the Fall. Pray write to me if I ought to return. My greatest Pleasure here is thinking I shall make my Jack here if I can preserve my Night-Cap

"Give my Compt^s to the Doctor. I would direct this to him only it might the sooner be miscarried as he is always rambling & in other respects it matters not to which of you I write. With Compliments to all friends I am my dear Sir yours sincerely

J^{no} Todd jr.

I have made Draughts on you for something under 50 £ out of Cosey's Stock which please to retain as I have made myself answerable.

J. T."

The very few men in the three Kentucky forts had already been sadly reduced early this year by the capture of Daniel Boone and twenty-seven others, while they were making salt by the Licking River. Boone was taken to the Shawnee town, Chillicothe, where he said: "I was adopted, according to their custom, into a family where I became a son, and had a great share in the affection of my new parents, brothers, sisters, and friends."²³

"This ceremony of adoption, although considered the greatest possible compliment by the Indians, was a very painful and humiliating process. The hair was pulled out until the head was entirely bald, with the exception of the 'scalp lock,' which was left long, and adorned with ribbons and feathers. The victim was then handed over to women who led him into the river and scrubbed him thoroughly, to 'take out all his white blood.' He was next conducted to the council of braves, where the chief made a formal address intended to impress upon him the greatness of the honor thus thrust upon him, and finally, painted and decorated in the most elaborate style, he was conducted with great pomp, to a feast given in honor of the new son of the tribe."²⁴

At Corn Island, Clark, after bringing his men 600 miles from Pittsburgh into the western wilderness, without ever disclosing to one of them the real objective of his expedition, now told them it was Kaskaskia—hundreds of miles farther. He said:

"After my Making Known my Instructions, almost every Gen^{tn} warmly Espoused the Enterprise and plainly saw the utility of it, and supposed they saw the salvation of Kentucky almost in their Reach, but surely Repined that we ware not strong enough to put it beyond all doubt. The Soldiery in Gen^l Debated on the subject but determined to follow their Officers."²⁵

On Corn Island, Clark erected a blockhouse²⁶ and divided the

²³ McElroy's *Kentucky in the Nation's History*, 79, quoting from Boone's *Autobiography*.

²⁴ Id., p. 79, paraphrasing Peck's description as given by Hartley.

²⁵ *Illinois Historical Collections*, VIII:222.

²⁶ *Illinois Historical Collections*, VIII:118, 222; Joseph Bowman to

Brinker, *Conquest of the Northwest* (English), 558; *Draper MSS.*, 57 J 13 (Daniel Trabue's Narrative); Col. Montgomery to governor, *Virginia Calendar State Papers*, III: 441. These citations are given because the fortifying of Corn Island has been questioned by Butterfield in his *Conquest of the Illinois*, 580.

land into garden plots for some fifteen or twenty families of immigrants who, much against his desire, had come down the Ohio under protection of his troops; but he said: "I now found [them] to be of Real Service, as they were of little expense and with the invalids would keep possession of this Little post until we should be able to Occupy the Main shore."²⁷ From these few families a goodly number of prominent Kentucky people are descended.

While Clark and his men were on Corn Island, Hamilton, with the approval of General Haldimand, the British commander-in-chief of Canada, was planning to carry an irresistible force of northern and southern Indians to destroy the settlers in Kentucky, sweep the inner frontiers along the Alleghenies, and capture Pittsburgh.²⁸ In June he held a grand council at Detroit with over sixteen hundred of his savage allies from many nations. They were quite ready to join him, and he was evidently confident that he would drive the rebels out of the Mississippi Valley. The Indians returned to their homes to prepare for the great campaign, while Hamilton proceeded to gather men and supplies for it.

Meantime the little band of Virginians at the falls were being drilled for their offensive. Clark wrote:

"Every preparation now made for our departure. after spending a Day of amusement in parting with our friends of Kentucky, they to Return to the defence of their Cuntrey and we in serch of new adventures, on the [24th] of June 1778 we left our Little Island and Run about a mile up the River in order to gain the main Channel, and shot the Fall at the very moment of the suns being in a great Eclipse, which caused Various conjectures among the superstitious."

No doubt, as the little army of rudely clad men in their small boats passed into the swirling and tossing waters of the falls, this nearly total eclipse of the sun, almost turning day into night, must have seemed an ominous beginning for their daring enterprise.

"As I knew that spies were kept on the River below the Towns of the Illinois, I had resolved to March part of the way

²⁷ *Illinois Historical Collections*, VIII:222.

²⁸ *Michigan Pioneer Collections*, IX:399, 431, 442-58.

by Land and of course left the whole of our baggage, except as much as would equip us in the Indian mode; the whole of our force, after leaving such as was Judged not Competent to the expected fatigue, Consisted only of four Companies Cap^{tns} Jn^o Montgomery, J Bowman, L Helms & W Harrod."²⁹

As nearly all these men then were, or later became, residents of Kentucky and left many descendants there, and as some became prominent in the state's affairs, it is unfortunate that no complete roster of them has been preserved. Frequent reference to some of them will appear, however, in the following pages.

"We . . . double Man'd our Oars," says Clark, "and proceeded day and Night until we run into the mouth of the Tenese River the fourth day landed on an Island to prepare Ourselves for a March by Land" to Kaskaskia, "one hundred and twenty miles, much of it a swampy and difficult road" through forest and prairie.³⁰ A few weeks after the march Captain Bowman wrote: "We started with about four days provisions and steered a north-west course for the Illinois and in six days time we arrived there in the night. We traveled two days without any provisions, being very hungry. Our men were all determined to take the town, or die in the attempt."³¹

The only connected accounts we have of the ensuing events in the Illinois are given in Clark's narrative letter written to his friend, Col. George Mason, and his so-called Memoir Letter, written ten years later at the request of Mr. Madison and Senator Brown. (Quotations in this and the next chapter will be from the Mason letter, unless otherwise noted.)

"On the Evening of the 4th of July we got within three miles of the Town Kaskaskias, having a River of the same name to cross to the Town; After making ourselves ready for anything that might happen, we marched after night to a Farm that was on the same side of the River about a mile above the Town, took the family Prisoners, & found plenty of Boats to Cross in; and in two hours Transported ourselves to the other Shore with the Greatest silence.

"I learned that they had some suspicion of being attacked and had made some preparations, keeping out Spies, but,

²⁹ *Illinois Historical Collections*, VIII:223.

³⁰ *English's Conquest of the Northwest*, 166.

³¹ Bowman to Brinker, *English's Conquest of the Northwest*, 558. See also Bowman to Hite, Id. 563, holograph in *Author's MSS*.

they making no discoveries, had got off their Guard. I immediately divided my little Army into two Divisions ordered one to surround the Town, with the other I broke into the Fort, secured the Governour Mr Rochblave, in 15 minutes had every Street Secured, sent Runners through the Town ordering the People on the pane of Death to keep close to their Houses, which they observ'd, and before daylight had the whole disarmed; nothing could excell the Confusion these People seemed to be in, being taught to expect nothing but Savage treatment from the Americans. Giving all for lost, their Lives were all they could dare beg for, which they did with the greatest fervancy; they were willing to be Slaves to save their Families. I told them it did not suit me to give an answer at that time, they repared to their houses trembling as if they were led to Execution; my principal would not suffer me to distress such a number of People, except, through policy it was necessary. A little reflection convinced me that it was my Intrest to Attach them to me, according to my first Plan; for the Town of Cohos [Cahokia] & St Vincents [Vincennes] and the numerous Tribes of Indians attached to the French was yet to influence, for I was too weak to treat them any other way.

"I sent for all the Principal Men of the Town who came in as if to a Tribunal that was to determine their fate forever, Cursing their fortune that they were not apprised of us time to have defended themselves. I told them that I was sorry to find that they had been taught to harbbour so base an opinion of the Americans and their Cause: Explain'd the nature of the dispute to them in as clear a light as I was capable of, it was certain that they were a Conquered People and by the fate of War was at my mercy, [but] that our Principal was to make those we Reduced free instead of enslaving them as they imagined, that if I could have surety of their Zeal and attachment to the American Cause, they should immediately enjoy all the privileges of our Government and their property secured to them that it was only to stop farther effusion of Innocent Blood by the Savages under the influence of their Governour, that made them an object of our attention &c. no sooner had they heard this than Joy sparkled in their Eyes and [they] fell into Transports of Joy that really surprised me; as soon as they were a little moderated they told me that they had always been kept in the dark as to the dispute between America & Britain that they had never heard any thing before but what was prejudicial and tended to insence them against the Americans, that they were now convinced that it was a Cause they ought

to Espouse; that they should be happy of an opportunity to convince me of their Zeal, and think themselves the happiest People in the World if they were united with the Americans and beg'd that I would receive what [they] said [as] their real sentiments . . . in order to be more Certain of their sincerity,

"I told them that an Oath of fedelity was required from the Citizens and to give them time to reflect on it, I should not Administer it for a few days in the meantime any of them that chose, was at liberty to leave the Country with their families, except two or three particular Persons; that they might repair to their families and conduct themselves as usual without any dread.

"The Priest that had lately come from Canada had made himself a little acquainted with our dispute; Contrary to the principal of his Brother in Canada was rather prejudiced in favour of us. He asked if I would give him liberty to perform his duty in his Church. I told him that I had nothing to do with Churches more than to defend them from Insult, that by the laws of the state his Religion had as great Priviledges as any other: This seem'd to compleat their happiness. They returned to their families, and in a few Minutes the scean of mourning and distress was turned to an excess of Joy, nothing else seen nor heard—Adorning the Streets with flowers & Pavilians of different colours, compleating their happiness by singing &c."³²

Before these occurrences, Clark had ordered guards stationed in the outskirts of the town to prevent news of its capture being carried to other British towns, or to the numerous Indian enemies in the surrounding country; and so effective was this precaution that five weeks elapsed after the capture before Hamilton at Detroit learned the Americans were in the Illinois. On the day of the capture Clark sent Bowman with thirty men to seize Cahokia, some sixty miles to the north. He also at once sent Simon Kenton, Shadrach Bond and Elisha Bathey as spies to Vincennes on the Wabash to learn the situation and British strength there;³³ for once in possession of the Illinois towns, Vincennes would naturally be his next objective. A condensed account of the expedition up to this point and of what immediately followed was given a few weeks afterward in the follow-

³² *Illinois Historical Collections*, VIII:119-122.

³³ Kenton's Recollections, *Draper MSS. Notes*, 78-9.

ing interesting letter from Capt. Joseph Bowman to his uncle in Virginia:

“Illinois, Kaskaskia,—July 30, 1778—

“Dear Sir—

“I embrace this opportunity to give you some information of our proceedings since our embarkation from Monongahela till our arrival at this place. We set sail from thence down [to] the Big Kanawha, where we found our men had been confined for eight days, in which time there had been an attack made on the fort by a superior number of Indians, supposed to be about two hundred. They killed one man in the fort and wounded one or two more, but, finding themselves not likely to succeed in their attempt, they endeavored to kill all their cattle and then make toward Greenbrier, where I expected they intended to make a fatal blow. From thence we continued down to the falls of the Ohio, where we erected a small garrison upon an island, where I left ten or twelve families, with a quantity of provisions and a few men to guard them. From thence we continued down the Ohio—moving day and night—with about 170 or 180 men in number, till within sixty miles of the mouth. We ran our boats up a small creek to hide them, not having men enough to leave a sufficient guard. From thence we started for the Illinois, taking four days’ provisions with us, and in six days arrived at the place in the night, on the 4th. inst., having marched two days without any sustenance, in which hungry condition we unanimously determined to take the town or die in the attempt.

“About midnight we marched into the town without being discovered. Our object was the fort, which we soon got possession of. The commanding officer [Philip Rochblave] we made prisoner, and is now on his way to Williamsburg under a strong guard, with all his instructions, from time to time, from the several governors at Detroit, Quebec and Michilimackinac, to set the Indians upon us, with great rewards for our scalps, for which he has a salary of £200 sterling per year. This town consists of about 250 families, sufficiently fortified to have resisted a thousand men, but, coming upon them by surprise, they were obliged to surrender themselves. The next day evening, I was ordered by our commanding officer, with thirty men mounted on horseback, to attack three other French towns up the Mississippi. The first is called Parraderushi [Prairie du Rocher], about fifteen miles from Kaskaskia, the town we had in possession, and before they had any knowledge of my arrival, I was in possession of this place, which was no small surprise to them; in conse-

quence of which they were willing to comply with any terms I should propose. From thence I proceeded to St. Philips, about nine miles higher up the river, which I likewise took possession of, and, as it was impossible for them to know my strength, the whole being transacted in the night, they also came to my own terms. From thence I proceeded to Cauhou [Cahokia] about forty or fifty miles above St. Philips, which contained about one hundred families. We rode immediately to the commander's house and demanded a surrender of him and the whole town, which was immediately complied with. I then possessed myself of a large stone house, well fortified for war. I was immediately threatened by a man of the place—that he would call in 150 Indians to his assistance and cut me off. This fellow I took care to secure, but lay upon our arms the whole night, this being the third night without sleep. In the morning I required them to take the oath of allegiance to the states, or I should treat them as enemies, which they readily agreed to, and before ten o'clock there were 150 who followed the example, and in less than ten days there were 300 took the oaths, and now appear much attached to our cause.

"But as this is in so remote a part of the country, and the Indians meeting with daily supplies from the British officers, who offer them large bounties for our scalps, I think it prudent to leave a guard here; and being anxious to do everything in my power for my country, in order to establish peace and harmony once more amongst us, this will engage my attention the ensuing winter. The inhabitants of this country upon the Mississippi have, without any kind of doubt, influenced the several nations of Indians in this quarter, as also upon the Ohio, so that, ere it be long, I flatter myself we shall put a stop to the career of those blood-thirsty savages, who glory in shedding the blood of the innocent.

"For further particulars, I must refer you to my brother, the bearer hereof, and I am, etc.

Joseph Bowman."³⁴

³⁴ Bowman to Hite, *Author's MSS.* Holograph. In *Illinois Historical Collections*, VIII:612, and English's *Conquest of the Northwest*, 563, this letter is given as from Almon's *Remembrancer*, perhaps a misrefer-

ence, as it has been in the author's possession for over fifty years. See *Virginia Magazine of History and Biography*, XIII. English's *Conquest of the Northwest*, 558, gives Bowman's similar letter to Brinker.

CHAPTER XI

VINCENNES AND INDIAN ENEMIES WON OVER

With the Illinois towns captured, and the French inhabitants there won over by Clark's intrepid soldiers and his own consummate tact, his next object was to win Vincennes. If that could be done, the British would have no white settlements left in the western country between the Ohio and the Great Lakes basin.

Vincennes, however, could not be surprised like the Illinois towns; and it was far too strong to be successfully attacked by his few Virginian troops. Indeed, it was extremely doubtful whether he could hold even the towns he had won. Not only did the inhabitants there outnumber his little army, but he had to depend on them for food and every other necessary; for his men had come into the country without a mouthful of food and, as one of the inhabitants said, dressed "more like savages than civilized men." To take needed provisions from the inhabitants by force would have been a fatal step; for it would have been sure to antagonize them; and, with their friends at Vincennes, Hamilton at Detroit, and many neighboring Indian allies to come to their aid, they would probably soon have made their captors captives, or compelled them to seek refuge in Spanish Louisiana. In either case, all hope of further American conquest would have vanished. In this critical situation, only the most tactful conduct on the part of the American officers and men could retain the new-won loyalty of the Illinois French; and accordingly, every effort was made to show the people that confidence was reposed in them. This policy had the desired effect. Clark wrote:

"Post St. Vincent, a Town about the Size of Williamsburg was the next Object in my view. As the whole was apprised of me, I was by no means able to march against it (their Governour a few months before going to Detroyet, I was resolved if possible to win their affection which I thought myself in a fair way of doing. more fully to know the sentiments of the Inhabittants about there, And to execute my

Plans, I pretended that I was about to send an Express to the falls of Ohio for a Body of Troops to Join me at a certain place in order to attack it; it soon had the desired effect. Advocates immediately appear'd among the people in their behalf. Mr. Jeboth [Gibault] the Priest, to fully convince me of his Attachment offered to undertake to win that Town for me if I would permit him and let a few of them go; they made no doubt of gaining their friends at St Vincents to my Interest; the Priest told me he would go himself, and gave me to understand that, although he had nothing to do with temporal business, that he would give them such hints in the Spiritual way that would be very conducive to the business; In a few days the Priest, Doct^r Lefont, the Principal, with a few others set out, and a Proclamation I sent, for that purpose, and other instructions in case of success—In a few weeks they returned with intilgence agreeable to my wishes.”¹

The people of Vincennes, learning of the capture of their brethren in the Illinois and the kind treatment and freedom they had received, and learning also that France had become America's ally, readily threw off their British allegiance and acknowledged themselves citizens of Virginia. Clark had sent them authority to form a company and garrison their own town, to “convince them of the great confidence” he put in them.²

“They went in a body to the Church whare the Oath of Allegiance was administered to them in the Most Solem Manner an officer was Elected and the Fort Amediately [garrisoned] and the American Flag displayed to the astonishment of the Indians and every thing settled far beyond our most sanguine hopes. the people hear amediately began to put on a new face and to talk in a different Stile, and to act

¹ *Illinois Historical Collections*, VIII:122-3.

² The commission sent the commander of the militia was as follows:

“By George Rogers Clark, Esquire Colonel commanding the Eastern Illinois and its dependencies &c &c.

“By virtue of the Power and Authority in me vested by his Excellency Patrick Henry Governor and First Magistrate of Virginia

&c, I name, appoint and constitute you by these Presents, Captain of a Militia Company at Poste Vincennes in consequence of which you will carefully discharge all the duties pertaining to the same.

“Given under my hand and seal at Fort Clark this 10th day of August 1778.

“G. R. Clark

“To Mr Francis Bosseron Esquire.” (Indiana State Library, LaSalle Papers.)

as perfect Fremen with a Garison of their own with the United States at their Elbows. Their Language to the Indians was Amediately altered they began as Citizens of the States and informed the Indians that their old Father the King of France was come to Life again and had Joined the Big knife [and] was Mad at them for Fighting for the English that they would advise them to make peace with the Americans as soon [as] they could, otherways they might expect the Land to be very Blody &c.”³

“I now found myself in possession of the whole, in a Country where I found I could do more real service than I expected; which occationed my situation to be more disagreeable as I wanted men. The greatest part of my Men was for returning, as they were no longer Ingaged. surrounded by numerous Nations of Savages, whose minds had been long poisoned by the English, it was with difficulty that I could Support that Dignity that was necessary to give my orders that force that was necessary, . . . but I got about one hundred . . . enlisted for eight months.”⁴ [The men who would not enlist were sent with Rochblave to Virginia, but] “Many of the French, fond of the service, the different Companies soon got Compleat. I stationed Cap^t Bowman at Cohos, Cap^t Helms com[mander] at St Vincents Superintendant &c—

“Domestick affairs being partly well settled, the Indian Department came next the object of my attention and of the greatest importance, my sudden appearance in their Country put them under the greatest consternation. They was generally at War against us, but the French and Spainyards appearing so fond of us confused them, they counceled with the French Traders to know what was best to be done, and of course was advised to come and selicit for peace.”⁵

Soon a great horde of Indians came to Cahokia to see the “Big Knife” chief, as they called Clark. All had been at war with the Americans and they neither were, nor professed to be, friendly, but said they came to learn what he would say. Soon, however, part of them—Puans—were found trying to surprise him at night and carry him off. He promptly had their two chiefs arrested and put in irons, thus defying the whole.

Intensely dramatic scenes followed. The French inhabitants feared this action would provoke a general massacre; but Clark’s

³ *Illinois Historical Collections*, VIII:238.

⁴ *Id.* 123.

⁵ *Illinois Historical Collections*, VIII:123.

fixed policy in dealing with the Indians was never to show weakness, but to make a bold front and awe them; and he pursued this policy on this occasion.

“The Prisoners with great submission celicited to speak to me, but was refused. They then made all the interest they possibly could amongst the other Indians (who was much at a loss what to do, as there was Strong Guards through every Quarter of the Town) to get to speak to me; but I told the whole that I believed they were a set of Villians, that they had Joined the Inglish and they were welcome to continue in the Cause they had espoused; that I was a Man and a Warrior; that I did not care who was my Friends or Foes; and had no more to say to them; Such conduct Alarmed the whole Town; but I was sensible that it would gain us no more Enemies than we had already, and if they after selicited for terms, that it would be more sincere, and probably a lasting good effect on the Indian Nations—distrust was visible in the Countenance of almost every Person during the latter part of the day. To shew the Indians that I disregarded them, I remained in my Lodging in the Town about one hundred Yards from the Fort seemingly without a guard, but kept about fifty Men conceiled in a Parlour adjoining, and the Garrison under Arms; there was great Counciling among the Savages dureing the Night; But to make them have the greater idea of my Indifferency about them, I assembled a Number of Gentlemen & Ladies, and danced nearly the whole Night.”⁶

Next day a general council was held with all the assembled Indians, and the arrested Puan chiefs brought in. Clark would heed no appeals in their behalf from speakers of other tribes, but addressing the whole, explained the war and boldly offered them choice of peace or war.

“After the great Ceremonies Commonly made use of at the Commencement of Indian Treaties they, as the solcitors, opening of it and after laying whole blame of their takeing up the Blody Hachet to the delusions of the English, acknowledging their error and many protestation of guarding in future against those bad birds flying through the Land (alluding to the British Emisaries sent among them) conclud[ed] in hoping that as the Great Spirit had brought us together for good, . . . that they might be received as our friends, and that the peace might take place of the bloody Belt, throw-

⁶ Id. 126.

ing down and stamping on those Emblems of war that they had received from the British, such as Red belts of wampum Flags &c.

"I informed them that I had paid attention to what they had said and that the next Day I would give them an answer, when I hoped that the Hearts and years of all people would be open to Receive . . . the truth which should be pure without deception; that I Recommended it to keep themselves prepared for the Result of this Day, on which perhaps their very Existance as Nations depended &c, and dismissed them, not suffering any of our people to shake hands with them as peace was not yet concluded, telling them it was time enough to give the Hand when the Heart could be given also. they Replied such sentiments was Like men that had but one Heart and that did not speak with a double Tongue &c. The next Day I delivered them the following speech."⁷

It is given here, from Quaife's rendition,⁸ as perhaps the most effective and eloquent one extant, made by a white man to Indians in their figurative style.

"Men and warriors, pay attention. You informed me yesterday that the Great Spirit had brought us together, which you hoped was good, as He is good. I also have the same hope, and whatever may be agreed upon by us at the present time, whether for peace or war, I expect each party will strictly adhere to and henceforward prove ourselves worthy of the attention of the Great Spirit.

"I am a man and a warrior, not a councillor. I carry War in my right hand and in my left Peace. I was sent by the great council fire of the Big Knives and their friends to take control of all the towns the English possess in this country, and to remain here watching the conduct of the red men. I was sent to bloody the paths of those who continue the effort to stop the course of the rivers, but to clear the roads that lead from us to those who wish to be in friendship with us, in order that the women and children may walk in them without anything being in the way to strike their feet against; and to continue to call on the Great Fire for warriors enough to darken the land of those who are hostile to us, so that the inhabitants shall hear no sound in it but that of birds that live on blood. I know that a mist is yet before your eyes; I will dispel the clouds in order that you may see

⁷ *Illinois Historical Collections*, VIII:243-4.

⁸ Milo M. Quaife's "*The Conquest of the Illinois*," a modernized copy

of Clark's "Memoir" letter, with capitalizing, punctuation and spelling reformed.

clearly the cause of the war between the Big Knives and the English, that you may judge for yourselves which is in the right. Then if you are men and warriors, as you profess to be, prove it by adhering strictly to what you may now declare, without deceiving either party, and thus proving yourselves to be only old women.

"The Big Knives are very much like the red men; they do not know well how to make blankets, powder, and cloth; they buy these things from the English (from whom they formerly descended), and live chiefly by raising corn, hunting, and trading, as you and your neighbors, the French, do. But the Big Knives were daily becoming more numerous, like the trees in the woods, so that the land became poor and the hunting scarce; and having but little to trade with, the women began to cry to see their children naked, and tried to make clothes for themselves, and soon gave their husbands blankets of their own making; and the men learned to make guns and powder, so that they did not want so much from the English.

"Then the English became angry and stationed strong garrisons through all our country (as you see they have done among you on the lakes and among the French) and would not let our women spin nor the men make powder, nor let us trade with anybody else. They said we must buy everything from them, and since we had become saucy they would make us give them two bucks for a blanket that we used to get for one. They said we must do as they pleased, and they killed some of us to make the rest afraid. This is the truth and the cause of the war between us, which did not begin until some time after they had treated us in this fashion. Our women and children were cold and hungry, and continued to cry. Our young men were lost, and there were no counsellors to set them in the right path. The whole land was dark, and the old men hung down their heads for shame, for they could not see the sun.

"Thus there was mourning for many years. At last the Great Spirit took pity on us and kindled a great council fire that never goes out, at a place called Philadelphia. He stuck down a post there and left a war tomahawk by it, and went away. The sun at once broke out, and the sky became blue. The old men held up their heads, and assembled at the fire. They sharpened the hatchet and put it into the hands of the young men, and told them to strike the English as long as they could find one on this side of the Great Water. The young men immediately struck the war post and blood ensued.

"Thus the war began, and the English were driven from one place to another, until they became weak and hired you red men to fight for them, and help them. The Great Spirit became angry at this, and caused your Old Father, the French king, and other great nations to join the Big Knives and fight with them against all their enemies, so that the English have become like a deer in the woods. From this you may see that it is the Great Spirit that caused your waters to be troubled, because you fought for the people he was angry with, and if your women and children should cry you must blame yourselves for it, and not the Big Knives.

"You can now judge who is in the right. I have already told you who I am. Here is a bloody belt and a white one. Take whichever you please. Behave like men, and don't let your present situation—being surrounded by the Big Knives—cause you to take up the one belt with your hands when your hearts drink up the other.

"If you take the bloody path, you shall go from this town in safety and join your friends, the English; and we will try like warriors who can put the most stumbling blocks in the road and keep our clothes perfumed with blood the longest.

"If you should take the path of peace and now be received as brothers to the Big Knives and the French, and should hereafter listen to bad birds that will be flying through your land, you will no longer be counted as men but as persons with two tongues, who ought to be destroyed without listening to what you say, as nobody could understand you.

"Since I am convinced that you have never heard the truth before, I do not wish you to give me an answer before you have had time to council if you wish to do this. We will part this evening, and when you are ready, if the Great Spirit will bring us together again, let us prove ourselves worthy by speaking and thinking with but one heart and one tongue."

Next day the chiefs of all the assembled nations, except the guilty Puans, gladly accepted the peace belt, and soon afterward entered into treaties of alliance with the Americans. Finally, peace was granted to the Puans, but only when, by Clark's nomination, their two offending chiefs were supplanted by two of their young warriors who had been offered for sacrifice to atone for the sin of their tribe. Other hostile Indians, also, alarmed by the American irruption and confused by finding their French friends had deserted the British, came to make the peace.

While Clark and his men were in the Illinois, interesting

events were happening in Kentucky. Boone, while in captivity, learned that a large body of Shawnees were about marching to attack Boonesboro, and he managed to escape. After a hard three days' flight through tangled forest, over many small streams and several large rivers, he reached the fort. On August 8th, under the leadership of a Canadian, Captain Duquesne, several hundred savages and a few Canadians appeared before it and demanded a surrender. Boone and Calloway, the recognized leaders of the besieged, shrewdly requested and were granted two days' time for consideration, which they used in strengthening the fort and getting in their cattle, and then defied the enemy. Boone afterwards said, the enemy "formed a scheme to deceive us, declaring it was their orders, from Governor Hamilton, to take us captives, and not to destroy us; but if nine of us would come out and treat with them, they would immediately withdraw their forces from our walls, and return home peaceably."

The meeting was agreed to and proved a very dramatic one. Daniel Trabue, who was in the fort, describes it as follows:

"Previously to their going out, Colonel Calloway told the people in the fort they must be Ready with their guns, if the Indians use any violence to fire on them and he also told them for the women to put on hats and hunting shirts and appear as men and get upon the top of the walls [that] their might appear as a great many men, and the women did so and the men in the fort did also get on the walls and cabins and showed to good advantage their was about 75 white men in the fort and about 1,000 indians around the fort about 30 of the Indian Chiefs came up in about fifty yards of the Fort Colonel Boon with them & our officers about 15 went to them and they had a long talk and the Indians made or pretended to make a firm Peace with the white people and said we must shake hands for friendship which the white people agreed to do. So they shook hands. the Indians then said shake hands again and so they did now the Indians sayed two Indians must shake hands with one white man to make a Double or sure peace at this time the Indians had hold of the white men's hands and held them. Col. Calloway objected to this but the other Indians laid hold or tryed to lay hold of the other hand, but Col. Calloway was they first that jerked away from them but the Indians seized the men two Indians hold of one man or it was mostly the case and did their best to hold them, but while the man and Indians was a scuffling,

the men from the Fort, agreeable to Col. Calloway's order, fired on them they had a dreadful skuffel but our men all got in the fort safe and the fire continued on both sides after that

"Col. Calloway had made a wooden cannon and took wagon tyre and wrapt it and the Indians had agreeable assembled together at a distance Calloway loaded his cannon and put in 20 or 30 ounce balls and fired at the Indians it made a large report, equal to a cannon the Indians squandered from that place much frightened and it was thought several killed or wounded this cannon was fired the second time and bursted the last time it was fired at a group of Indians at a distance and it made them skamper perdidiously whether they was hit with the bullits or whether it was the big loud Report it was uncertain, but one thing is a fact, they never was seen in gropes in sight after that time the Indians would sometimes hollow aloud to our men and curse them and said, why dont you shoot your big gun again our men did answer them get many of you together and we will shoot it but it is not worth while to shoot at one Indian when he is running or Dodgeing.

"This fort was close on the bank of the Kentucky River and it was discovered from the fort that there was an old cedar stick or pole that come up out of the Camp perpendicular and it was observed to shake; our men knew that the indians was digging a passageway this was a project of a Canadian frenchman as was thought. . . . Col. Calloway immediately had our men at Diging a ditch opposite the Indian ditch. Capt. Holder, a large strong man, took big stones and cast them from the fort over the Camp expecting they might fall on some of the Indians one of the women of the fort said Dont do so Capt. it might hurt some of the Indians and they will be mad and have revenge for the same and the Indians and our men did almost meet under the fort a Digging they could hear one another a digging and when the Indians heard that they quit, supposing our people might or would put their big gun their, the Siege continued for 10 days & nights our men received but little damage from the Indians fire but it was thought there was several Indians Killed."⁹

A briefer and somewhat different description of the Boonesboro parley was given, a few weeks after it occurred, by Col. John Bowman, in a letter to Colonel Clark, as follows:

⁹ McElroy's *Kentucky in the Nation's History*, 82-4.

"the Indians have Pushed us hard this Summer, I Shall onley Begin at the 7th Sep^t,—when three Hundred and thirty Indians with 8 French Men Came to Boonesburg Rased a flag and Called for Cap^t. Boone who had Lately Came from them, and offred Terms of Peace to the Boonesburgh People. Hearing that the Indians Gladly Treted with you at the Illenois gave them Reason to think that the Indians were Sincear; two days being taken up in this Manner till the [sic] Became Quite fimileyer with one another; but finding the Boonesburgh People would not turn out, and having Col^o. Calloway Maj^r. Smith, Cap^t Boone Cap^t. Buchanan, and their Subolterns, Eight in Number, in the Lick wheir the [sic] had their Table, (you Knoe the distance about 80 yards) the Indians Getting up, Black fish Made a long Speach, then gave the word go, Instantly a Signal Gun fired, the Indians fastned on the Eight Men to take them off, the white People began to Dispute the Matter, tho unarm^d, and Broke Loose from the Indians, though thir Being two and three Indians to one White Man, and in Runing the above Distance upwa^{ds} of 200 Guns fired from Each Side and Every Man Escaped but Squire Boone, who was Badley wounded though not Mortol and got Safe to the fort, on this a hot Ingagement Insued for Nine days and Nights, Constant fire without any Intermission, No More damige Done But one Killed and two wound^d and then dispersed to the Defrent forts wheare the[y] Still Remain in greate Numbers and way lay our Hunters—." ¹⁰

Bowman's letter also describes a very real danger confronting the Kentucky settlers, only less than that from the Indians. This was the want of salt wherewith to preserve the meat upon which they mainly relied for food when confined to their forts during winter. Previously, during the first year of the Revolution the scarcity of salt in the frontiers and the efforts to get it are thus told by Daniel Trabue:

"skoch Merchants hid their salt so that no salt could be got people gathered in companys and went and hunted up the salt where it was hid and Divided it in many instances by paying them a reasonable prise all law was stoped except breaches of the peace &c numbers went to the bays and boiled salt some saved their meet chiefly with hickery Ashes some people Dug up their smoke house floores and put the Dirt in hoppers and Dript the Dirt and boiled the water and

¹⁰ *Draper MSS.*, 48 J 42, holograph.

made salt One man my neighbour gave 1,000 pounds of Tobacco for one bushel of salt."¹¹

Bowman's letter to Clark, continuing, said:

"the Indians have Done More Damige in the Interior Settlements this Summer that Ever was Done in one Season before—Absolute Neadessesity Obliges me to Send Cap^t Harrod for Salt, that we May be Able to Lay up a Sufficiant Quantity of Provision for the Next Summer I hope you will Send us one hundred Bushels for that Purpose, Send Me an Acomp^t of the Same and I will Send you the Money by Cap^t. Muntgomery in the Spring, your Compliance in this Matter will Inable us to Keepe our ground, if not—we Shall be Oblge^d, to brake up for the want of Provision, for Nedessesity will Brake Strong Stone walls."¹²

Trabue tells of Clark's bringing to Kentucky from Kaskaskia enough salt to furnish "about two bushels to each fort, which was a great thing for us. With that salt we saved a vast quantity of Bears Meat."¹³ In 1777 pans for the boiling of salt water were brought over the mountains with great difficulty by John and Joseph Bowman.¹⁴ So slow was the boiling process, says Imlay,¹⁵ that to get a single bucketful of salt it was necessary to evaporate 400 gallons of water—a laborious process; and, when Indians were about, a very dangerous one. Early during the war Kentucky pioneers sometimes went in canoes for a few bushels of it as far as St. Genevieve, across the Mississippi River.

When Colonel Clark's conquest of the Illinois towns and the accession of Vincennes became known to the Virginia Assembly, it promptly asserted the state's right to the whole territory north of the Ohio, by passing, during its October session, 1778, an act making it a county of the state, called "Illinois County."¹⁶ This ready assertion of her broad charter title north of the Ohio was in strong contrast with her hesitation to recognize the handful of pioneers in Kentucky as citizens of the state and give them a county government two years earlier. Capt. John Todd was appointed civil governor and county lieutenant of the new county.¹⁷

¹¹ *Draper MSS.*, 57 J 6-8, holograph.

¹² *Id.* 48 J 42, holograph.

¹³ *Id.* 57 J 25.

¹⁴ Joseph Bowman to I. Hite, April 7, 1778, *Author's MSS.*

¹⁵ *Topographical Description of Western Territory*, etc. (London, 1793), p. 135.

¹⁶ *Illinois Historical Collections*, II:9.

¹⁷ *Id.* VIII:83.



GEORGE ROGERS CLARK
Monument at Quincy, Illinois
Inscription

The Son of Virginia The Sword of Kentucky
The Conqueror of the Illinois
His Prophetic Vision Gave to Civilization its
Richest Empire
A Tribute to Foresight, Courage and Fortitude
Erected by the State of Illinois, 1909.

CHAPTER XII

VINCENNES LOST AND RETAKEN

Turning to the British side of the western war: Governor Hamilton, before learning of the presence of the Americans in the Illinois, wrote in his daily notes for report to his superior:

"There are at least 400 Indians assembled to attack the fort of Kentucky, where Captain Boone was taken last year, and several large parties of Indians range the banks of the Ohio. I have taken every step in my power to intercept the batteaus from the Mississippi on their return, parties having been sent six weeks ago for that purpose. I am in hopes to have a good account of them.¹ [The batteaus referred to were those of Col. David Rogers, who had been sent to New Orleans by Governor Henry, and whose tragic fate will appear later.]

"25th August a party of 15 Miamis went to war towards the Ohio; Sept. 5, another, of a chief and 30 men; the 6th Baubin himself, with five Chippewas and 15 Miamis for Post. Vincennes."² This day, Hamilton said, one of his Delaware parties "brought in fifteen scalps to this place. . . .

"Sep 16. . . . Since last May the Indians in this district have taken 34 prisoners, 17 of which they delivered up and 81 scalps—several prisoners taken and adopted not reckoned in this number."³

When Hamilton learned of the American capture of the Illinois towns and the defection of Vincennes, he promptly resolved to retake the conquered territory and capture or drive out Clark and his men. He at once enlisted a large number of additional militiamen, raised a company of volunteers, and sent calls for many of his savage allies to join him. Boats were prepared and held in readiness to carry munitions and provisions across the western end of Lake Erie to the Maumee, up that river to its headwaters and thence, by a short portage, to the Wabash, down

¹ *Michigan Pioneer Collections*, IX:464.

² Id. 475.

³ Id. 476-7.

which he would go to Vincennes. His daily notes tell the story of his preparations and movements:

"Sept 22nd. . . . Preparations for our little enterprise are forwarding with alacrity. This day 15 large pirogues, capable of transporting from 1800 to 3000 lbs each, having had a thorough repair, set off for Wold Rapid. . . .

"26th. . . . This evening Mr. Charles Baubin came in from the Miamis. Letters which he brought mention one Clarke with 80 men at St. Vincennes, where the French receive them well. . . .

"Oct 3rd 1778. Last night the savages were assembled, when I sung the war song, and was followed by Captain Lernault, and several officers &c, and warriors going on the enterprise. The best disposition and alacrity shown by all."⁴

Hamilton's evident pleasure in receiving many American scalps, joining the savages during their horrible dance, and singing their war song with them, throws strong light upon his later denial that he ever encouraged their barbarous warfare.

Before starting against Vincennes his notes give the number of his troops at Detroit as follows: Garrison 217, militia 565, volunteers 42, making a total of 824 men, and on "October 7th, a reenforcement of British troops from Niagara."⁵ These British troops were highly disciplined ones of "The King's Own Regiment," and made the whole number of his troops 904. October 2nd his return of small boats going upon the Maumee was "13 batteaus . . . capable of carrying 39,300 lbs. 17 pirogues and canoes 33,700 lbs." "6th. Tents struck before day; embarked our cannon & part of stores."⁶

The next day he "took his departure from Detroit with a detachment of the Kings VIIIth Regiment, the Detroit volunteers, a detachment of Artillery, two companies of militia, and a number of savages under his command, to retake the posts the Rebels had taken possession of in the Illinois."⁷ The marching whites and Indians together numbered about five hundred. Hamilton's notes continue:

⁴ *British Museum, Add. MSS.*, 24320 ff, 1-6.

⁵ *Id.* See also Hamilton to Haldimand (*Michigan Pioneer Collections*, IX:473) and his "Return of the Garrison of Detroit," *Draper*

MSS.; Illinois Historical Collections, I:227-36.

⁶ *Id.*

⁷ *Magazine of American History*, I:186-93.

"Nothing very material happened till the 15th of December, when a reconnoitering party from our camp seized a lieutenant and three men, sent up by the commandant at St. Vincennes [Captain Helm] with written instructions to watch for the English and to hasten back with his intelligence. . . . From these men I learned that the commandant had permitted almost all his people to return to their homes, and depended on the French militia, who had all taken an oath of fidelity to the states.

"The 16th. I sent off two parties of Indians, each with an Indian officer, to intercept any intelligence of our arrival that might be sent to the Illinois, or the Falls of Ohio. They had orders to keep their stations till they should discover the English flag flying on the fort. At the same time Mr. Hay—appointed to act as major to the Detroit militia,—was detached with Captain La Mothe's Company of Volunteers, Lieut. Du Vernet of the Royal Artillery with the six pounder, and the detachment of the King's Regiment. He [Hay] had with him the interpreters and some chiefs of the different nations. Had our whole force moved forward together, it would probably have been impossible to have restrained the savages from destroying the settlement. As it was, the young men took alarm, that they should have no share in the business, and threw themselves hastily into the canoes, to follow. They were however prevailed on to return.

"A placart was sent to the inhabitants cautioning them to avoid acting on the offensive, as the consequence must be fatal to them, [meaning an Indian massacre.]

"Major Hay had orders to secure if possible the craft lying before the place, by sending a party in the night in boats to pass the town, and stop any people who should attempt to escape by water. If (as I expected) there was not any resistance made, and if he found the report of the prisoners to be true, he was to order the St. George's Ensign to be hoisted at the fort, as a signal for our out parties to join. Should he find that reinforcements has joined the Rebels, he was to take post to the best advantage, send off express to me, and await my arrival.

"Having taken these precautions, on the 17th I fell down the river, from the distance of seven leagues. It snowed and blew fresh from day-break till one o'clock, when, to my surprise I perceived the Rebel flag still flying at the fort. I concluded they had been reinforced, and was confirmed in that belief when I found Lieutenant Scheffelin, with all our boats, lying in a little cove about a mile above the town. The men (however half frozen) were in good spirits. I ordered Cap-

tains Maisonville and McLeon to land their men, and, leaving one man to each boat as a guard, marched slowly towards the place, ordering a flanking party, as the brushwood was thick on our left.

"When we came in sight of the town, I posted sentries and halted the men. A messenger now came from Major Hay, desiring I might send him the St. George's flag, that his men were advantageously posted, and the gun mounted. I ordered the flag to be carried, and went to join him, where I found his men drawn up, and the French militia bringing in their arms. Major Hay told me the Commandant [Helm] was deserted by those he had reposed confidence in, and did not mean to hold out, but that he would not strike his colours till he knew what terms he was to have."⁸

Wonderful courage, this!—Helm, deserted by his French militia and almost alone in the fort, refusing "to strike his colours" to an army of five hundred British and Indians, till he knew what terms he was to have! At this very time he sent off a letter to Clark which tells his situation:

"Dec. 17, 1778 [?]

"Dr Sir:

"At this time there is an army within three miles of this place. I heard of their coming several days before hand. I sent spies to find the certainty. The spies being taken prisoners, I never got intelligence till they got within 3 miles of the town. As I had called the militia, and had all assurance of their integrity, I ordered, at the firing of a cannon, every man to appear; but I saw but few. Capt. Burron [Bosserson] behaved much to his honor and credit; but I doubt the certainty of a certain gent. Excuse haste as the army is in sight. My determination is to defend the Garrison, though I have but 21 men but what has left me. I refer you to the [bearer] Mr. Wms, for the rest. The army is in three hundred yd of the village. You must think how I feel; not four men that I can really depend on, but am determined to act brave. Think of my condition. I know it is out of my power to defend the town, as not one of the militia will take arms, though [h], before sight of the army, no braver men.

"Their flag is at a small distance. I must conclude.

Y^r Humble serv^t

Leo^d Helms."⁹

⁸ British Museum, *supra*.

⁹ *Illinois Historical Collections*, VIII:89; Canadian Archives, Ser.

B, Vol. 122, 250; *English's Conquest of the Northwest*, 233.

Hamilton's notes narrate what followed:

"The six pounder being ready, I ordered Lieut Du Vernet to proceed with it towards the fort—six men, with a sergeant of the King's Regiment, marching before with fixed bayonets, followed by the remainder of the Detachment of the Volunteers, and Militia under Major Hay.

"As I approached the gate of the fort, I sent a person forward to summon the commanding officer to deliver his fort up. He desired, by a written paper, to know who made the demand. I sent for answer verbally, 'the King's Lieutenant Governor, from Detroit!' and advanced to the wicket. He came himself, (for indeed he was almost alone) and asked what terms he should have. He was answered humane treatment, that no other terms would be mentioned. He then admitted me, and I instantly posted sentries at the gate to keep out the savages; but while I attended to this, some of them got in at two gun ports which had not been secured. I called to the interpreters and used my best entreaties with the chiefs, who really did all in their power, but the torrent was too strong for such feeble barriers. They bore down the sentries, and, seeing that I had posted another at the door of the commandants quarters, they went to the window which they broke and fell to plundering. . . .

"For some time the commandant hesitated to take down the Continental flag, but at length finding it was left to themselves to do, he had it taken down and we hoisted the St. George's,—which signal drew in our parties, who had taken two prisoners, an American and a Frenchman, who had Capt. Helm's letter to Colonel Clark, commandant . . . of the eastern Illinois, acquainting him of the arrival of the English at this place and of his situation. I send your excellency a copy."¹⁰

How many much-heralded stories of Revolutionary heroism in the East pale beside that of this forgotten hero, Leonard Helm!

The day after taking Vincennes, Hamilton wrote General Haldimand that he had determined to go into winter quarters there and not proceed against Clark in the Illinois until spring. The reasons he gave were that "late rains have swelled the rivers, so as to make it probable we might be stopped so long as to consume our provisions before we got half way the distance, com-

¹⁰ *Illinois Historical Collections*, I:227-36. The copy he mentions is now in the British Museum.

puted 80 leagues;" that the Vincennes fort needed overhauling and required all hands to make it tenable; and that "if the garrison was weakened, a force might come against it and be joined by the unsteady inhabitants."

The winter rains he mentioned kept on increasing until the many streams between Vincennes and Kaskaskia rose above their banks, and vast stretches of the flat lands of Illinois were flooded. The Great Wabash, on the eastern bank of which Vincennes lay, became a lake five miles wide. Its western tributaries, entering it below Vincennes—the Embarrass, the two Little Wabash rivers, and many smaller streams—were so swollen that their channels were submerged by vast stretches of flood-water carrying great masses of driftwood. Even with small boats the crossing of the drowned lands became apparently impossible. Nearer Kaskaskia were many other streams to cross, for the whole region was nearly flat, and every depression filled with cold, muddy, running water—for many miles ankle deep, or knee deep, and often much deeper still.

Hamilton certainly had reason to wait for the waters to subside before going against Clark at Kaskaskia. On the 26th he sends reports that "Belts are gone from the Chickasas and Cherakees, to the Shawanese and Delawares, requiring them to forget former quarrels and to Unite against the Virginians;" of "a number of Shawanese, Ottawas, Chickasas and Cherakees being assembled at Cherakee [Tennessee] river;"¹¹ and of an invitation sent to all the southern Indians to "convene at the same place next Spring to come to St Vincennes to drive out the Rebels." On the 27th he wrote Haldimand that he had enlisted 250 militia of Vincennes; and, evidently confident of his strength, sent home his Detroit volunteers, and dispatched his Indians to war against Kentucky.

While Hamilton was in winter quarters and waiting for the floods to pass away, Clark and his officers were anxiously expecting news from Helm. For weeks they had received no reports from him, for although messengers had repeatedly been sent to him, they never returned, for they had been captured.

Reports of Hamilton's great preparations to sweep out the

¹¹ *Illinois Historical Collections*,
I:227-36.

Americans had reached Kaskaskia, but were offset by news that Congress had ordered General McIntosh, with 3,000 men, to march against Detroit.

"Knowing the weakness . . . of that Post at that time," said Clark, "their numbers, &c, I made no doubt of its being shortly in our Possession, And that Governour Hambleton, sensible that there was no Probability of his defending the Fort, had marched with his whole force to encourage the Indians to Harrass the General on his March; as the only Probable Plan to stop him, little thinking that [McIntosh] had returned, and Mr Hambleton had the same design on me."¹² "But in the hight of our anxiety, on the evening of the 29th of Janu^y 1779, Mr Vague [Vigo] a Spanish Merch^t Arrived from St Vincents, and was there the time of its being taken, and gave me every Intiligence that I could wish to have. Governour Hamilton's Party consisted of about eight hundred when he took possession of that Post on the 17th day of december past:—finding the Season too far spent for his intention against Kaskaskias, had sent nearly the whole of his Indians out in different Parties to War: But to embody as soon as the weather would Permit and compleat his design:—He had also sent messengers to the southern Indians, five hundred of whom he expected to join him—only eighty Troops in Garrison—(our Situation still appeared desperate, It was at this moment I would have bound myself seven years a Slave to have had five hundred Troops) I saw the only probability of our maintaining the Country was to take advantage of his present weakness,—perhaps we might be fortunate: I considered the Inclemency of the season, the badness of the Roads &c as an advantage to us, as they would be more off their Guard on all Quarters.

"I collected the Officers, told them the probability I thought there was of turning the scale in our favour: I found it the sentiment of every one of them and eager for it. Our Plans immediately concluded on; and sent An Express to Cohos for the Return of Cap^t McCarty & his Volunteers, and set about the necessary preparations

"in order to Transport my Artillery Stores &c, I had a Large Boat prepared and Rigged, mounting two four pounders six . . . large swevels, Manned with a fine Comp^y Command^d by Lieut. Rogers: She set out in the evening of the 4th of Jan^y [Feb^y] with orders to force her way if possible

¹² *Illinois Historical Collections*,
VIII:132.

within ten Leagues of St Vincents and lay until further Orders. This Vessel when Compleat was much admired by the Inhabitants as no such thing had been seen in the Country before. I had great Expectations from her.

"I conducted myself as though I was sure of taking Mr Hamilton, instructed my officers to observe the same Rule. in a day or two the Country seemed to believe it—many anxious to retrieve their Characters turned out, the Ladies began also to be spirited and interest themselves in the Expedition, which had great Effect on the Young men By the 4th day of [Feb^y] I got every thing Compleat and on the 5th I marched, being joined by two Volunteer Comp^{ys} of the Principal Young Men of the Illinois, Command^d by Cap^{ts} McCarty & Francis Charlaville. Those of the Troops was Cap^{tns} Bowman & William Worthingtons of the light Horse. we were Conducted out of the Town by the Inhabitants: and Mr Jeboth the Priest, who after a very suitable Discourse to the purpose, gave us all Absolution, And we set out."¹³

Despite Clark's studied show of confidence about "taking Mr. Hamilton," he was well aware of the desperate nature of the attempt, as his following letter to Governor Henry shows:

"Kaskaskia, Illinois, Feb. 3, 1779

"Dr Sr:

"As it is now near twelve months since I have had the least intelligence from you, I almost despair of any relief sent to me. I have, for many months past, had reports of an army marching against Detroit, but no certainty.

"A late maneuver of the famouse Hair-Buyer general, Henry Hamilton, Esqr., Lieut. Governor of Detroit, hath alarmed us much. On the 16th of December last, he, with a body of six hundred men, composed of Regulars, French volunteers and Indians, took possession of St. Vincennes on the Wabash, what few men that composed the garrison not being able to make the least defense. He is influencing all the Indians he possible can, to join him. I learn that these that have treated with me as yet refused his offers. I have for some time expected an attack from him. He has blocked up the Ohio R[iver] with a party [of] French and Indians.

¹³ *Illinois Historical Collections*, VIII:138-9. Many of the Virginians who marched against Vincennes were from Kentucky and many of the rest later became its citizens, and some very influential ones. Unfortunately we have no complete list

of the seventy Americans and sixty Frenchmen who were in the march. Of the sixty from Kentucky who had joined the expedition at Corn Island, presumably many accompanied Clark against Vincennes.

"Yesterday I fortunately got every piece of Intelligence that I could wish for, by a Spanish gentleman that made his escape from Mr. Hamilton, [Narrates Vigo's report.] . . .

"Being sensible that without a reinforcement, which at present I have hardly a right to expect, that I shall be obliged to give up this country to Mr. Hamilton without a turn of fortune in my favor, I am resolved to take the advantage of his present situation and risk the whole on a single battle. I shall set out in a few days with all the force I can raise of my own troops and a few militia that I can depend on, whole amounting to only one hundred———of which——— goes on board a small G[alley sent¹⁴] out some time ago, mounting two four-pounders and four large swivels; one nine pounder on board. This boat is to make her way good, if possible, and take her station ten leagues below St. Vincennes until further orders. If I am defeated, she is to join Co. Rogers on the Mississippi. She has great stores of ammunition on board; com[manded] by Lieut. John Rogers. I shall march across by land myself with the rest of my boys. The principal persons that follow me on this forlorn hope are Captain[s] Joseph Bowman, John Williams, Edward Worthington, Richard M[c]Carty and Fran[cis] Charleville; lieutenants: Rich^d Brashears, Ab^m Kellar, Ab^m Chaplin, Jn^o Baily and several other brave subalterns.

"You must be sensible of the feeling that I have for those brave officers and soldiers that are determined to share my fate, let it be what it will. I know the case is desperate, but Sr, we must either quit the country or attack Mr. Hamilton. No time is to be lost. Was I sure of a reinforcement, I should not attempt it. Who knows what fortune will do for us? Great things have been effected by a few men well conducted. Perhaps we may be fortunate. We have this consolation; that our cause is just and that our country will be grateful and not con[demn] our conduct in case we fail, though, if so, this coun[try] as well as Kentucky, I believe, is lost."¹⁵

Capt. Joseph Bowman kept an interesting journal of the events just before and during the march against Vincennes which will be given here with occasional insertions from Colonel Clark's narrative letters:

"Mr Vigue [Vigo], a Spanish Subject who had been at Post St Vincent on his lawful business, arrived and gave us Intelligence that Gov^r Hamilton and thirty regulars with

¹⁴ MSS. torn.

¹⁵ Archives, Virginia State Li-

brary, Richmond; *Illinois Historical Collections*, VIII:97.

fifty French Volunteers and about four hundred Indians had come last Nov^r and took that Fort with Capt. Helm and Several other Americans, who were there, with a number of horses designed for the settlement of Kantuck &c.

"30th On which Col. Clark called a Council with his officers and it was concluded to go and attack Gov^r Hamilton at all Events (for fear) if it was let alone till the Spring that he with his Indians would undoubtedly cut us all off.

"31.—Sent an express to Cahokea for the Volunteers. Nothing Extraordinary this day.

"Feb'y 1st Orders given for a large Batteau to be repair'd and provisions got ready for the Expedition concluded on—

"2nd A Pack Horse Mast^r appointed and orders to prepare Pack Saddles &c

"3rd The Gally or Batteau finished called her the Willing put the loading on Board together with two four Pounders and four Swivels Ammunition &c.

"4th About ten oClock Capt McCarty arriv'd with a comp'y of Volunteers from Cahoes and about two oClock in the afternoon the Batteau set off under the command of Lieut Rogers with 46 Men, with orders to proceed to a certain Station near St Vincent till further Orders.

"5th Raised another comp'y of Volunteers under the command of Capt. Francois Charlwice [Charleville] which added to our force and encreased our number to 170 Including the Artillery Pack Horsemen &c. [46 men were on the galley and 130 marched over land—70 Americans and 60 French.¹⁶] about three OClock Crossed the Kaskaskias River with our Baggage and Marched about a League from the Town—Rainy and drisly weather.

"7th began our March early, made a good days March

¹⁶ This was the number Clark gave in his letter to Governor Henry, April 29, 1779 (*Illinois Historical Collections*, VIII:169), and seems correct; but the number marching by land is variously stated. Bowman's *Journal* says: "170, including [those] on the galley" who were said to be "40" and "46." His letter to Hite (Id. 332; *Author's MSS.*) said "about 130." Lieutenant Rogers said: "Our party was 130 strong . . . about 60 of which were French volunteers." (*Draper MSS.*, 1 L 54.) Clark's letter to Mason (November, 1779) says "our whole party with the boats crew, consisted of only a little upwards of two hundred." His Memoir Letter (he evidently had Bowman's *Journal* before him) says: "170 men," of whom 130 went by land and 40 in the galley. Marshall's *Kentucky*, I:72, says "130 men." (Copied from author's *George Rogers Clark*, p. 110.)

for about 9 leagues [27 miles]¹⁷—The roads very bad with Mud and Water [A great march, this—27 miles through bad roads in one day.] pitched our camp in a square. Baggage in the Middle every Comp'y to guard their own Square. [They carried no tents.]

"8th Marched early thro' the Water, which we now began to meet in those large and level plains where (from the Flatness of the country) the Water rests a considerable time before it drains off, notwithstanding, our Men were in Great Spirits, tho much fatigued.

"9th Made a moderate days march—rain'd most of the day.

"10—Crossed the River of the Petel [Petit] Ford upon Trees that we felled for that purpose, the Water being so high there was no fording it; still raining and no Tents—encamped near the River, stormy &c.

"11th Crossed the saline River—nothing extraordinary this day—

"12. Marched across bad plain, saw and killed numbers of Buffaloe—the roads very bad from the immense Quantity of Rain that had fallen—the Men much fatigued—encamped at the Edge of the Wood,—this plain or Meadow being fifteen or more Miles across, it was late in the Night before the Troops and baggage got together—Now 21 leagues from st Vincent."

The distance from Kaskaskia to Vincennes by the winding trail used was estimated to be 80 leagues, or 240 miles. When the country was flooded, a great many detours to avoid deep water were of course necessary, and multiplied the distance.¹⁸

¹⁷ *Illinois Historical Collections*, VIII:156.

¹⁸ Hamilton said it was "240 miles" from Kaskaskia to Vincennes (*Illinois Historical Collections*, VIII:182), and in another place "80 leagues" (Id. I:227), evidently allowing three miles to the league. The Mason letter says "240 miles." Joseph Bowman to I. Hite, June 14, 1779 (*Author's MSS.*), said the march from February 6th to "the place" (somewhat indefinite) was "about 180 miles." Cf. English's

Conquest of the Northwest, p. 288, which says the usual well defined trail between Kaskaskia and Vincennes passed through or near the present site of eight named towns, and adds, "By way of the points named on a direct line, it is about one hundred and seventy miles;" but actual marching in such a time of flood could not have been in a direct line between any of these points, for the detours must have been innumerable and many of them very great.

"13. Arrived early at the two Wabashes—altho a league asunder they now made but one—We set to make a Canoe.

Clark's Memoir said: "13th. The [little Wabash rivers] are three miles apart and from the heights of the one, to those of the other, on the opposite shore, is five miles,—the whole under water, generally about three feet deep, never under two, and frequently four. We formed a camp on a height we found on the bank of the river, and suffered our troops to amuse themselves. I viewed this sheet of water for some time with distrust, but accusing myself of doubting, I immediately set to work [and], without any consultation about it, or suffering anybody else to do so in my presence, ordering a pirogue [dug-out canoe] immediately built, and acted as though crossing the water would be only a piece of diversion; and, as but few could work at a time, pains were taken to find diversion for the rest, to keep them in high spirits. But the men were well prepared for this attempt, as they had frequently waded further in water, but perhaps seldom about a half-leg deep. My anxiety to cross this place continually increased, as I saw that it would at once fling us into a situation of a forlorn hope, [when] all idea of a retreat would be, in some measure, done away. If the men began, after this was accomplished, to think seriously of what they had really suffered, . . . they [would] prefer risking any seeming difficulty, that might turn out favorably, rather than to attempt a retreat, when they would be certain of experiencing what they had already felt; and, if the weather should be freezing, [retreat would be] altogether impracticable, except the ice would bear them."¹⁹

Bowman's *Journal*: "14. Finished the Canoe and put her in the water about four O Clock in the afternoon.

"15. Ferryed across the two Wabashes with it—being then five Miles in Water to the opposite hills, where we encamped still raining—Orders given to fire no Guns in future except in case of Necessity.

"16. Marched all day thro' Rain and Water Crossed the second river our provisions began to grow short.

"17. Marched early crossed Several Rivers, very deep. sent Mr Kennedy (our commissary) with three Men [in the canoe] to cross the River Embara[ss] to endeavour to cross if possible and proceed to a plantation [opposite] post Vincent in order to steal Boats or canoes to ferry us across the [Great] Wabash—About one hour before sunset We got Near the River Embaras, found the country all overflown—

¹⁹ *Illinois Historical Collections*,
VIII:270.

we strove to find the [Great] Wabash travelld till 8th O Clock in mud and water but could find no place to encamp on—still kept marching on, but after some time Mr Kennedy and his party return'd found it impossible to cross the Embaras River—we found the Water fallen from a small spot of Ground staid there the remainder of the Night—drisly and dark Weather.

“18th At Break of day heard Gov^r Hamiltons morning Gun—set off and marched down the River saw some fine land—About 2 o Clock came to the Bank of the Wabash, made Rafts for 4 Men to cross and go up to Town, and Steal Boats, but they spent the day and the Night in the Water to no purpose for there was not one foot of dry land to be found.

“19th Capt. Mc Cartys Comp'y set to making a Canoe and at three o Clock the 4 Men returned after spending the Night on some old logs in the Water—the Canoe Finished. Capt. McCarty with three of his Men embarked in the Canoe and made the next attempt to Steal Boats, but he soon returned having discovered four large fires about a league distance from our Camp and Seemed to him to be fires of Whites and Indians—Immediately Col. Clark sent two Men in the said Canoe down to meet the Batteau with orders to come on day and Night, that being our last hope—starving. Many of the Men much cast down particularly the Volunteers. No provisions of any Sort, now two days—hard fortune!

“20. Camp very quiet but hungry, some almost in despair Many of the Creols Volunteers talking of returning—fell to making more Canoes when about 12 O Clock our Centry on the River brought to a Boat with 5 frenchmen from the Post who told us we were not yet discover'd, that the Inhabitants were well disposed towards us &c. Capt. Williams's Brother (who was taken in the Fort) had made his escape—also that one Maisonville with a party of Indians were 7 days in pursuit of him with much . . . more news . . . Such as the repairs done the fort the strength &c. they informed us of two Canoes they had seen adrift at some distance above us—Order'd Capt. Worthington with a party to go in Search of the Canoes—returned late with one only—One of our men killed a deer which was distributed in camp—Very acceptable.

“21st At Break of day began to ferry our Men over in our two Canoes to a Small little hill called the lower Mamell (or Bubbie) Capt. Williams with two Men went to look for a passage but were discover'd by two men in a Canoe, but cou'd not fetch them to—the whole Army being over, we

thought to get to town that Night, so plunged into the Water sometimes to the Neck for more than one league when we stop'd on the second hill of the Same name, there being no dry land near us on one side for many leagues, our Pilots says we cannot get along, that it was impossible—the whole of the Army being over, we encamped, Rain all this day—no Provisions.

“22—Col. Clark encourages his Men which gave them great Spirits. Marched on in the Water, those that were weak and faintish from so much fatigue went in the Cannoes, we came one league farther to some sugar camps, where we staid all Night heard the Evening and Morning Guns from the Fort—No provisions yet, Lord help us!”

Of the details of this day's march, Clark's Memoir Letter said:

“This last march through the water was so far superior to anything the [captured] Frenchmen had any idea of that they were backwards in speaking. [They] said that the nearest land to us was a small league, called the Sugar Camp, on the bank of the river. A canoe was dispatched off and returned without finding that we could pass. I went myself and sounded the water, found [it] as deep as to my neck. I returned with the design to have the men transported on board the canoes to the Sugar Camp, which I knew would spend the whole day and ensuing night, as the vessels would pass but slowly through the bushes. The loss of so much time, to men half starved, was a matter of consequence. I would have given a good deal for a days provision, or for one of our horses.

“I returned but slowly to the troops, giving myself time to think. On our arrival, all ran to hear what was the report. Every eye was fixed on me. I unfortunately spoke seriously to one of the officers. The whole was alarmed without knowing what I said. They ran from one to another bewailing their situation. I viewed their confusion for about one minute, whispered to those near me to do as I did, immediately took some water in my hand, poured on some powder, blacked my face, gave a warwhoop, and marched into the water, without saying a word. The party gazed and fell in, one after another, without saying a word, like a flock of sheep. I ordered those that were near me to begin a favorite song of theirs. It soon passed through the line and the whole went on cheerfully. I now intended to have them transported across the deepest part of the water, but, when getting about waist deep, one of the men informed me that he thought he felt a path. (A path is very easily discovered

under water by the feet.) We examined and found it so, and concluded that it kept on the highest ground, (which it did); and by [taking] pains to follow it we got to the Sugar Camp without the least difficulty . . . where there was about half an acre of dry ground, (at least not under water), where we took up our lodgings.”²⁰

(Bowman): “23. Set off to cross a plain called Horse Shoe plain about 4 miles long cover’d with Water breast high—here we expected Some of our brave Men must certainly perish having froze in the Night and so long fasting and no other Resource but wading this plain or rather a leak of Water We pushed into it with Courage, Col. Clark being the first, taking care to have the Boats close by, to take those that was weak and benumbed (with the cold) into them Never was Men so animated with the thoughts of revenging the wrongs done to their back Settlements as this small Army was—”²¹

Clark’s parallel description of this day’s march is as follows:

“This was the coldest Night we had the Ice in the morning was from $\frac{1}{2}$ to $\frac{3}{4}$ Inch thick near the shoars and in still water the Morning was the finest we had had on our march A little after sun-Rise I Lectured the whole what I said to them I forget but it may be easily Imagined by a person that could possess my affections for them at that time Concluded by informing them that surmounting the plain that was then in full View and Reaching the oposite woods would put an End to their fatigue—that in a few Hours they would have a sight of their long wish[ed] for Object and amediately stept into the water without waiting for any Reply a Huza took place as we Gen^{ly} March through the water in a line, as it was much Easiest, before a third Entered I Halted and, further to prove the Men and having some suspition of three or four, Hollowed to Maj^r Bowman order[ing] him to fall in the rear with 25 men and put to death any man that refused to March, that we wished to have no such person among us the whole gave a cry of apperbation, that it was Right, and on we went. This was the most Trying of all the difficulties we had experienced.

“I Gen^{ly} kept 15 or 20 of the strongest Men Next myself and, Judging from my own feeling what must be that of others, geting about the Middle of the plain the water about

²⁰ *Illinois Historical Collections*,
VIII:273-4.

²¹ *Id.* 159.

knee deep, I found myself sensibly failing. as their was hear no Trees or Bushes for the men to support themselves by I doubted that many of the most weak would be drown'd. I order[ed] the canoes to make the Land, discharge their Loading, and ply backwards and forwards with all diligence and pick up the men—and, to Incourage the party, sent some of the strongest men forward with orders, when they got to a certain distance, to pass the word back that the water was geting [shallower] and when geting near the woods to cry out 'Land!' This strategem had its desired effect. the men Incouraged by [it] exerted themselves almost beyond their abilities, the weak holding by the stronger and frequently one with two others hol[ding]. This was of Infinite advantage to the weak but the water never got shallower, but continued deepening. geting to the woods whare they expected Land, the Water was up to my shoulders, but gaining those woods was of great consequence. all the Low men and Weakly Hung to the Trees and floated on the old logs untill they ware taken of by the Canoe, the strong and Tall got ashore and built fires many would reach the shore and fall with their bodies half in the water, not being able to Support themselves without [it]

"this was a delightfull Dry spot of Ground of about Ten Acres we soon found that the fires answered no purpose, but that two strong men, taking a weaker one by the Arms, was the only way to recover him and being a delightfull Day it soon did. But fortunately, as if designed by Providence, a Canoe of Indian squaws and Children . . . coming up to the Town . . . through part of this plain as a high way, was discovered by our Canoes, as they ware out after the men. they gave chase and took them, on Board of which was near half Quarter of Buffaloe, some corn, Tallow, Kettles &c this was a grand prise and was Invaluable Broath was amediately made and served out to the most weak. With great care most of the whole got a little, but a great many would not tast it but gave their part to the weakly Jocosely saying something cheary to their comrades this little refreshment and fine weather by the afternoon gave new life to the whole

"crossing a narrow deep Lake in the Canoes and marching some distance we came to a Copse of Timber called the warriours Island we ware now in full View of the Fort and Town, not a srub betwen us, at about two miles distance. every man now feasted his Eyes and forgot that he had suffered any thing [but thought] that all that had pass^d was owing to good policy and nothing but what a man could bear

and that a soldier had no Right to think &c passing from one extrem to another which is common in such cases."²²

(Bowman): "About One O Clock we came in sight of the Town we halted on a small Nole of dry land called Warriors Island, where we took a Prisoner that was hunting ducks—who informed us that no person suspect[ed] our coming in that season, of the year—Col. Clark Wrote a letter to the Inhabitants in the following terms:—
To the Inhabitants of Post Vincent

Gentlemen: Being now within two Miles of Your Village with my Army determin'd to take your Fort this Night and not being willing to surprize you I take this step to request of such of you as are true citizens and willing to enjoy the liberty I bring you, to remain still in your houses, and those (if any there be) that are friends to the King, will instantly repair to the fort and join the hair Buyer Gen^l and fight like Men and if any such as do not go to the fort, shall be discovered afterwards, the may depend on Severe punishment on the contrary those that are true friends to liberty may depend on being well treated and I once more request they shall keep out of the streets for every person I find in arms on my Arrival I shall treat him as an Enemy.

signed G. R. Clark.

"In order to publish this letter, we lay still to about Sun down when we began our March all in order with colors flying and drums brased after wading to the Edge of the Town in Water breast high we mounted the rising ground the town is built on. about 8 o Clock Lieu^t Bayly with 14 Regulars was detached to fire on the fort, while we took possession of the Town—and order'd to stay till he was reliev'd by another party which was soon done—Reconnoitred about to find out a place to throw up an Entrenchment found one and set Cap^t Bomens comp^{ts} to work soon crossed the Main street about 120 yards from the fort Gate.

"We were Inform'd that Cap^t Lamoth with a party of 25 Men were out in a Scout, who heard our firing and came back—we sent a party to Intercept them but Missed them, However we took one of their Men and one Cap^t Major Nille [Maisonville] a principal Man, the Rest makeing their escape under cover of the Night into the Fort,—smart firing all Night on both sides—the cannon play'd smartly, not one of our Men wounded seven Men in the Fort badly wounded—fine Sport for the sons of Liberty!

²² *Illinois Historical Collections*,
VIII:275-6.

"24. As soon as day light the fort began to play her small Arms Very Briskly—one of our Men slightly wounded about 9 O Clock the Col. sent a flag to Gov^r Hamilton the firing then ceased, during which time our Men was provided with a Breakfast, it being the only meal of Victuals since the 18th inst.

Col. Clark's letter as follows—

Sir In order to save yourself from the Impending Storm that now Threatens you I order you to Immediately surrender yourself up with all your Garrison Stores &c. &c. for if I am obliged to storm, you may depend upon such Treatment justly due to a Murderer beware of destroying Stores of any kind or any papers or letters that is in your possession or hurting one house in the Town for by heavens if you do there shall be no Mercy shewn you.

signed G. R. Clark.

Answer from Gov^r Hamilton—

"Gov^r Hamilton begs leave to acquaint Col. Clark that he and his Garrison are not disposed to be awed into any action Unworthy of British subjects.

H. Hamilton.

"The firing then began very hot on both sides none of our Men wounded several of the Men in the fort wounded thro' the port Holes, which caused Gov^r Hamilton to send out a flag with the following letter, viz.

"L^t Gov^r Hamilton proposes to Col. Clark a truce for three days, during which time he promises there shall be no defensive works carried on in the Garrison, on condition Col. Clark shall observe on his part a like cessation of any offensive work that he wishes to confer with Col. Clark as soon as can be, and further proposes that whatever may pass between them two, and any other Person mutually agreed upon to be present, shall remain a secret till Matters be finally concluded As he wishes that whatever the Result of their conference may be to, the honor and credit of each party—If Col. Clark makes a difficulty of coming into the fort L^t Gov^r Hamilton will speak to him before the Gate 24th Feb'y 1779.

Col. Clarks Answer—

"Col. Clarks compliments to Mr Hamilton and begs leave to inform him that Col. Clark will not agree to any other terms than that, of Mr Hamiltons surrendering himself and Garrison Prisoners at discretion if Mr Hamilton is desirous

of a conference with Col. Clark he will meet him at the Church with Capt. Helms. 24th Feb'y 1779.

"The Messenger return'd with the above answer, during which time there came a party of Indians down the hills behind the Town, who had been sent by Gov^r Hamilton to get some Scalps and Prisoners from the falls of Ohio. Our Men having got news of it pursued them, kill'd two on the Spot, wounded three, took 6 Prisoners Brought them into Town two of them proving to be White men That they took Prisoners, we releas'd them and brought the Indians to the Main Street before the Fort Gate, there tomahawked them and threw them into the River—During which time Gov^r Hamilton and Col. Clark met at the Church—Gov^r Hamilton produced certain articles of capitulation with his name signed to it which was refused—The Col. told him he wou'd consult with his officers and let him know the terms, on which [there was a] capitulation as follows:

"1 . . . That Lt Gov^r Hamilton engages to deliver up to Col. Clark Fort Sackville as it is at present With all the stores &c,

"2 . . . The Garrison . . . are to deliver themselves prisoners of War, & march out with their arms & accoutrements &c.

"3 . . . The garrison to be deliver'd up to morrow at ten oClock.

"4 . . . Three days time to be allow'd the Garrison to settle their accounts with the Traders & Inhabitants of this place.

"5. The officers of the Garrison to be allow'd their necessary baggage &c signed at Post Vincent 24th Feb'y. 79.

"Agreed to for the following Reasons—The Remoteness of Succour, the state and Quantity of Provisions &c. the Unanimity of officers and men on its expediency, the Hon'ble Terms allow'd and lastly the confidence in a Generous enemy.

Henry Hamilton L. Gov^r
& Sup^r Intend^t.

"25th About 10 O Clock Capt. Bowman & Capt. McCarty Companies paraded on the one side of the Fort Gate, Gov^r Hamilton and his Garrison Marched out whilst Col. Clark Capt^s Williams & Wetheringtons [Worthington's] comp'y marched into the fort Reliev'd the Centry's, hoisted the American colors,—"

From that moment to this the British have never had a foothold in the Mississippi Valley south of the Great Lakes basin!

For several years afterward they made desperate efforts to regain the region they had lost, and they carried destructive Indian raids into Kentucky; but never after the American flag was on that day hoisted again over the fort at Vincennes were there white residents professing British allegiance in the Mississippi Valley north of the Ohio.

"Secur'd all their arms, Gov^r Hamilton marched back to the fort shut the Gates—Orders to 13 Cannon to be fired—during which time there happen'd a very unlucky accident, for thro' Mismanagement there blew up 26 six pound Catridges in one of the Bateries which Much burnt Capt. Bowman Capt. Worthington and four more Men very much. [Bowman several months later died from an infection resulting from this explosion at the very instant of celebrating the glorious victory.]

"No acc^t of our Boat as yet.

"26. Rain all day Capt. Helm, Bosseron, Henry and Major Legra[s] with 60 Men of the Militia order[ed] to proceed up the River with 3 boats, with a Swivle in each to meet 10 Boats that was sent in dec^r last for Provisions and stores to Omi [Miami] and to take the same in custody.²³

"27. The Willing, our Batteau, arriv'd to the great mortification of all on board, that they had not the honor to assist us . . . Came W^m Mires express from Williamsburgh With very good news—Capt. Bowman receives a Majors commisⁿ inclosed from the Gov^r."

The "express" Bowman here refers to brought dispatches from Governor Henry saying he had ordered Colonel Montgomery with 500 men to march at once to join Clark. This was the "good news" Bowman mentions, but it proved very disconcerting news. At this time, said Clark,

"Detroit opened full in our View not more than 80 men in the Fort, great part of them Invalids, and we found that a considerable Number of ther principal Inhabitants was disaffected to the British cause. . . . The Indians on our rout we knew would now more than ever be cool to the English. . . . Lake Erie we might have easily in our possession, which would compleatly put an End to all our Troubles in this

²³ "March 5. About 10 o'clock Capt. Helm arrived with his party. Took seven boats laden with Provision, Bale Goods &c taken from Enemy with the following Prisoners —Mr. DeJean, Grand Judge of Detroit, Mr. Adimar Com'y with 38 Privates."

Quarter and perhaps open a Door to further advantageous operations Those were the Ideas that influenced us at present.

"We could now augment our forces in this quarter to about four Hundred men as near half the Inhabitants of St Vincens would Join us Kentuck we knew could immediately furnish perhaps 200 Men, as their was a certainty of their receiving a great addition of settlers in the spring. with the [aid] of our own stores, which we had learned was safe on their passage, added to that of the British, their would not be a single article wanting for such an attempt, and supplies of provitions might be got at DuTroit for some time. we privately Resolved to imbrase the object that seemed to Court my acceptance, without delay, giving the Enemy no time to recover the present blows they had received, but wished it to become the object of the Soldiery and Inhabitants before we should say any thing about it. But immediately [it] became the common topick among them and in a few days [they] had arranged things so that they war in their Imagination almost ready to march. they ware discountenanced in such conversation and such measures taken as tended to show that our Ideas was foreign from such an attempt but at same time was taken every step to pave our way. . . . We had (though having but a day or twos time to study on the subject) so fix[ed] on the plan of operation that we ware almost certain of suckcess, in case we without delay made the attempt on Detroit, as we knew our own strength and supplies, and wanted no further information Respecting that Post; but on the other hand we ware hear flattered [by the governor] with the prospect of an Imediate Reinforcement.

"a Council was called on the subject I layed before the officers my plans for the Immediate Reduction of DeTroit and explained the almost certainty of suckcess and probability of keeping possession of it untill we could Receive suckers from the State, which we might reasonable suppose that they would make use of every Exertion on receiving the Inteligence which we could easily convey to them in a few [weeks] If we waited the arrival of the Troops Mention[ed] in the [Governor's] Packet, the Enemy in the mean time might get strengthened and probably we might not be so capable of Carrying the [place] with the expected reinforcement as we should be with our present force in case we ware to make the attempt at this time, and in case we should be disappointed in the promest Reinforcement, we might not be able to effect it at all.

"their was various arguments made use of on this delicate point every person appeared anctious to Imbrace the present opertunity but prudence appeared to forbid the Execution, but to wait for the reinforcement."²⁴ "Never," Clark wrote Mason, "was a person more mortified than I was at this time to see [slip] so fair an opportunity to push a victory—Detroit lost for want of a few men!"²⁵

The delay in marching against that place, caused by the promised reinforcement of 500 men under Montgomery, probably prevented the western Great Lakes and Northwest Canada from being part of the United States today; for from what is now known from the British archives of the conditions at Detroit, it can hardly be doubted that Clark's plan to capture that hatching place of Indian warfare would have succeeded. Hamilton's savage allies everywhere were stunned by his capture; the British officers at Detroit were evidently in a panic; and the inhabitants, —nearly all French,—were ready to rise against them and join "their old Father, the French King," and his American allies.

A shrewd move by Clark at this juncture further weakened the British. He said:

"The number of prisoners we had taken, . . . when compared to our own numbers [was so large] that we ware at a loss how to dispose of them so as not to interfear with our future operations. . . . A compleat company of Volunteers from DeTroit, of Cap^{tn} Lamothe, mostly composed of young men, was drawn up and when expecting to be sent of into a strange cuntrey and probably never again returning to their connections was told that we ware happy to learn that many of them ware torn from their Fathers and Mothers and forced on this Expedition, [that] others ignorant of the True cause in contest had engaged from a principal that actuates a great number of men, that of being fond of enterprise, but that they now had had a good opertunity to make themselves fully acquainted with the Nature of the War which they might explain to their friends and that as we knew that sending them to the States whare they would be confined in a Jail probably for the course of the war would make a great number of our Friends at DeTroit unhappy we had thought proper for their sakes to suffer them to return home &c a great deal was said to them on the subject On the

²⁴ *Illinois Historical Collections*, VIII:290-3. ²⁵ *Id.* 145.

whole they were discharged on taking an Oath not to bear Arms against America untill exchanged and received an order for their Arms Boats and provitions to return with the Boats was to be sold and divided among them when they got home.

"In a few Days they set out, and (as we had spies that went among them as Traders) we learned that they made great havack to the British interest on their return, Publicly saying that they had taken an Oath not to fight against america but they had not sworn not to Fight [for] them &c and things carried to such a Height that the Com^{dg} Officer thought it prudent not to take notice of any thing that was said or done. Mrs McComb that keeps a noted boarding hows I understand had the assurance to shew him the stores she had provided for the Americans.²⁶ this was the completion of our design in suffering this company to return."²⁷

The British themselves show how effective this move was. Twenty-nine days after Hamilton's surrender, Lernault, his successor in command at Detroit, wrote to General Haldimand: "the Canadians are exceedingly assuming; not one will lend a hand to strengthen the fort;" that he had "little hopes of any assistance from either the Canadians or Indians;" and that "all the Canadians are rebels, to a man."²⁸ So great was the disaffection at Detroit that General Haldimand sent him authority to establish martial law and to execute offenders, or send them prisoners to Niagara, "to assure the fidelity of the rest."²⁹

Both Captain Bird, who built the Detroit fort, and Lernault, declared it indefensible.³⁰ Lernault begged a large immediate reinforcement "to defend the town, or old fort, and not abandon it in case of an attack."³¹ Soon afterward Captain Helm wrote Colonel Clark:

"I have had intelligence since I wrote you. there is not above one hundred men in the garrison [at Detroit]. . . . Pray neglect no time on your Expedition. . . . I think you may depend on the greatest part of this village to go with you. You may be assured your name Strikes Terror to both English and Indians. Send no man but yourself, if you think

²⁶ Mr. McComb's statement to the wife of General Jessup tells about providing such stores. (*Draper MSS.*, 10 J 23.)

²⁷ *Illinois Historical Collections*, VIII:290, 291-2.

²⁸ *Michigan Pioneer Collections*, IX:328.

²⁹ *Id.* IX:408, X:328, 347.

³⁰ *Id.* X:626.

³¹ *Id.* X:421.

proper of the Expedition. Weau [Ouiatenon] & Ome [Miami] is ready to receive you with Joy. Your health and mine [was drunk] by the whole village, before the Command^t Officer, and by many of the officers of the Garrison."³²

The surprising victory of Vincennes had electrical effect on the Indian allies of the British. They were amazed and downcast. One after another, the tribes begged peace of Clark, until all between the Ohio and the Great Lakes basin became his allies, except only the Shawnees, who were cowed and quieted. Even the Miamis, on the Maumee, deserted their British "Father" and allied themselves with the "Big Knife."

³² *Draper MSS.*, 49 J 42; *Illinois Historical Collections*, VIII:316.

CHAPTER XIII

GREAT IMMIGRATION: GATHERING CLOUDS

On the return of Clark's victorious little army to Kaskaskia, there was great rejoicing, and both French and Americans displayed great enthusiasm for the coming June rendezvous at Vincennes and the march thence against Detroit. For some weeks the French inhabitants contributed liberally of supplies, and many enlisted for the campaign; but dark clouds were gathering.

Four years of war had brought upon the states almost complete financial exhaustion. All of them, and the Continental Congress also, had made repeated and increasing issues of paper money and made it legal tender in payment of debts. The value of course depreciated with each new issue. Shortly before the return of the troops to Kaskaskia, Congress issued many millions of paper dollars, which then were worth only about ten cents. In May they had dropped to five cents, and by the end of the year to half that. Within another year a thousand dollars of United States money would not buy a single Mexican silver dollar. All over the country heartless debtors pursued their creditors to pay off debts with the worthless paper money.

Bad money, always and everywhere, breeds suspicion, cheating and general demoralization, both public and private, and leads to numberless disputes and enmities. The French in the Illinois towns and at Vincennes had received the paper money of Congress and Virginia for the supplies they had furnished to the troops, and soon felt they had been defrauded. After a short time they refused to take another farthing of it. To procure many articles necessary to feed and equip their troops for the coming campaign, Clark, his officers, and several leading French inhabitants, personally endorsed the State's bills given for purchased supplies. Few of these bills were ever paid by the impoverished state, and most of the endorsers were forced to pay them and thereby were financially crippled or ruined.

By late May came a shocking disappointment. The anxiously expected reinforcement under Montgomery arrived at Kaskaskia, but, instead of 500 properly equipped troops, he brought only 150 ragged and half-starved men. They had been diverted to attacking the Cherokees in Western North Carolina and had suffered many delays and hardships on their way. This was a serious blow to Clark's plan to take Detroit; but Col. John Bowman had written him promising to bring 300 good men from Kentucky to the Vincennes rendezvous, and with these the prospects of victory still seemed fair.

The result of Clark's victories was the rapid growth of the population of Kentucky. Even so early as the autumn of 1778, following the capture of Kaskaskia and accession of Vincennes, many settlers went there; but during the next spring many times more came. Whereas in January, 1778, there were only 102 fighting men and boys, in May, 1779, Colonel Bowman easily raised 296 men to lead across the Ohio; but instead of taking them, as he had promised, to join Clark at Vincennes for the march against Detroit, he unwisely used them to make an independent stroke of his own against the unsuspecting Shawnees in South Central Ohio.

Crossing the Ohio, at the mouth of the Licking, they marched eastwardly some hundred miles to the Shawnee town, Chillicothe, which they reached in the night without being discovered. Here (according to the account generally given) Bowman divided his force, ordering Logan, with about half, to march against the town from the right, while he himself approached it, with the rest of the troops, from the left.¹ When the two divisions should meet Bowman was to give the signal for attack. Logan's men marched half around the town and waited some time for Bowman to meet them; but a barking dog gave notice of their presence and fighting began. The Indians, who were very few, gathered in their council house and made a stout resistance. While Logan's men were fighting, Bowman, who never reached the scene of conflict, sent them orders to retreat, and something much like a rout followed. The Indians were encouraged by this retreat of the Kentuckians, and pursued them for some miles, when a

¹ His captains were Benjamin and John Bulger, and his adjutant, Logan, William Harrod, Levi Todd Major Bedinger.

stand was made and they were driven off. Bowman reported that he lost about eight men killed and had some five wounded. The Indian loss was probably very small, though much exaggerated in some of the reports.

Bowman was roundly denounced for his performance, mainly no doubt by Logan's men, and was accused of both incompetency and cowardice; but it was a period of so much demoralization and backbiting that all partisan accounts of such affairs must be taken with liberal allowance for bias.² James Patton, a participant, gives another description of the battle as follows:

"In the Summer 1779, Col. John Bowman, who was County Lieut . . . of the whole country now the State of Kentucky, Collected and Ordered all the Militia that could be Raised, with their Officers, to March to the Mouth of Licking in Order to go to take Chellecothy town on head waters of little Miame Capt W^m Herrod Commanded the Militia at the falls & myself his Lieut. Marched from the falls to the Mouth of Licking & joined by the men from the upper forts, being about three Hundred in the whole & Marched, after crossing the Ohio, in two Days with our provisions on our Backs & Surounded the town the Second Night and at Day Break of Day [sic] attacked the town the Indians were much alarmed & quit the Cabbens & Asembled in a large Council house with their Cheif Blackfish—who some time before, say 1777, beseiged Boons Burgh nine Days & Nights but could not take it. The Indians made port-holes in their Counsil house: the men took possession of their town & commenced a heavy fire on the Council house & killed a Number of the Indians as the Collected to the house Blackfish was Constantly Beating a kettle Drum, to Collect the Indians—we took a Negro woman prisoner which gave Information that Girty & one Hundred Mingos was then at the pickaway town & the Indians had sent a Runner there. Col. Bowman hearing the negroes account ordered a Retreat we Burned all their town except the Council house, kil^d. Blackfish in the Council house, took all the Richest of their plunder and one Hundred & Sixty three Horses, left 6 or 7 brave men dead on the field & Retreated

"we Marched about 6 miles on our Retreat and was Overtaken by a number of Indians which surounded us & fired on all quarters we had notice of their Coming and

² This account of the expedition is given in Humphrey Marshall's *History of Kentucky* (I:92-6). substantially the much copied one

formed a line Round all our horses & plunder soon were fired on in every Direction Col Bowman a verry good Citizen but not Acquainted with Indian warfare submitted to his officers who were well Acquainted with Indian fighting; the officers ordered their men to Advance on the Indians at all quarters & we soon made them Retreat and pursued them near a mile—we killed their chief Red Hawk & wounded a number of Indians—we lost but one man killed and none wounded—we then marched in peace till we came to the mouth of Licking Sold our plunder & Horses which amounted to one Hundred and ten pound pr. man in Continental mony,"³ then worth about five and a half pounds specie.

Colonel Bowman's own account of the expedition was given in a letter to his uncle in Virginia (June 15, 1779), as follows:

"I marched 296 Men to one of the Shawnee Towns and Placed them at their Different Posts without ever Being Discovered, but the Dogs being so very uneasy I expect gave a Suspicion, about an our Before Day an Indian came to see what was the cause of the Dogs barking at such a Rate and come within five feete of the line where I had placed the men. I had given orders not to fire a gun till day lite without we should be discovered this Indian discovering of us Raised the Shout and Immediately was Shot down by onely one of our men this gave the Indians time to Get into Sume Block Houses the had Bult to Defend themselves. we cept our Posts Being Placed all Round the Town and it being Dark Sum Indians came Rushing on us, which occasioned a brisk fire the Returned into their Block Houses by their cryes their appered to be many wounded amongst them but at daylight finding that the had fortified themselves, that we could not Storm the Place without sacrificing many a man, I ordered them to withdraw at a convenient Distance and cept the fort in action till we gathered up wards of 200 horses we Packed up what Plunder we could and Sot fier to the greatest Part of the Town, the good Skins and furs that was burnt their was in everybody's opinion worth ten times as much as what we Brought away and that Sold for £ 31,666.14 [allowing for paper money depreciation, about £1,583 specie] the Indians overtook us on our Return, about 15 miles from the Towns, and pushed hard to Retake what we had got the Battle lasted about three Ours, in which time Sum of our horses got away the Indians with

³ James Patton's account, *Holograph Draper MSS.*, 49 J 89.

Drue with a considerable Loss as appered by Blod and sines they left we Saw where eight had Been dragged away through the weades and only one left ded on the ground at the town we Lost Seven Men and five wounded, and at this place one Ded we returned in twenty Days to our Respective places of abode."⁴

The effect of Colonel Bowman's attack on the Shawnees destroyed all hope of capturing Detroit. Those savages had been greatly cowed by the capture of Hamilton and were not at all inclined to further warfare. The attack on them not only made them active enemies, but aroused suspicion amongst the Indians generally that they had been deceived when told by Clark that the Big Knife soldiers had not come to fight them, or take their lands, but only wanted a free road through their country to drive out the British. The defeat of Bowman emboldened them greatly, and from this time forth the Indian tribes generally became our active enemies. Never afterwards was there a free road through them to Detroit. On the contrary, despite the rapid increase of population in Kentucky, the settlements there were to suffer increasingly destructive raids for years to come.⁵

When news came to the Vincennes rendezvous that the 300 men promised by Bowman had been defeated and would not appear the disappointment may be imagined. Clark wrote: "Instead of 300 men from Kentucky there appeared about 30 volunteers commanded by Cap. McGary. The loss of the Expedition [against Detroit] was too obvious to hesitate about it,"⁶ and it was abandoned. Some of the troops were left to garrison Vincennes, others were sent back to Kaskaskia and Cahokia under Montgomery, while Clark with the rest went to the Falls of Ohio. Here, in accordance with an order he had sent the year before, the settlers on Corn Island had removed to the main shore, where Louisville now stands, and built a small fort at the foot of what

⁴ *Author's MSS.* (C. 456). In a letter to Colonel Clark, the day before, he offers various excuses for not sending the men to Vincennes. *Draper MSS.*, 49 J 52.

⁵ Roosevelt, who did not understand this, says that "in reality the expedition was of great service to the Kentuckians, though the Ken-

tuckians never knew it." (*Winning of the West*, II:248.) He imagined that it stopped a raid by Bird with some two hundred Indians, which was really prevented by other causes and at best would have been comparatively insignificant.

⁶ *Illinois Historical Collections*, VIII:300.

is now Twelfth Street. During the rest of the war the post at the Falls was general headquarters for Clark's "Illinois Regiment."

It was of first strategic importance for several reasons. It guarded the interior Kentucky settlements against tribes north and northwest of it—the Miamis, Delawares, Ouatians and Lake Indians,—who were far the most numerous and formidable of the Indian enemies. The post was admirably situated, also, for protecting communication with Vincennes and the Illinois towns; for rivers were then the main highways, and communication with those towns was essential if the country northwest of the Ohio was to be held against the British. Furthermore, a military post at the Falls was necessary for the protection of the all-important navigation of the Ohio, because, to avoid the dangerous rapids, boats had to stop there and cargoes be carried overland to the head or foot of the Falls; and they would have been an easy prey for hostile Indians unless protected by troops stationed there.

The expulsion of the British from the country north of the Ohio had tremendous effect in the East. It seemed to promise peace and safety for settlers in the West, and a great tide of immigration at once poured there from Virginia and neighboring states. Within a few weeks after news of Hamilton's surrender reached the upper Ohio country, General McIntosh wrote Washington from Pittsburgh:

"The emigration down the Ohio from this quarter I fear will depopulate it altogether, unless I have orders to put a timely stop to it immediately. It is thought that near one half of what remain here will go down to Kentucky, the Falls, or the Illinois."⁷

Captain Rogers, who had conducted Hamilton to Williamsburg, wrote thence: "one would think from the Discourse that is generally heard among the people that . . . half Virginia intend'd to Kentuk."⁸ Mr. Herndon, of Spotsylvania County, wrote: "People are running Mad for Kentucky hereabouts."⁹

This immigration multiplied Kentucky's population enormously. Marshall says that by reason of the

⁷ *Draper MSS.*, 15 S 175.

⁹ *Draper MSS.*, 1 L 71.

⁸ *Illinois Historical Collections*, VIII:373.

"beneficial influence of Colonel Clark's expeditions and success, a general confidence sprang up and prevailed throughout the country; and while it brought more emigrants to the old settlements, it also encouraged the settlement of many which were new. . . . About the first of April a block house was built where Lexington now stands; and a settlement began there under the auspices of Robert Patterson. . . . Bryant's station, five miles northeastward from Lexington, was also settled in 1779, by the Bryants. . . . Levi Todd, whose residence had been at Harrodsburgh, settled a station about ten miles southwestward from Lexington. . . . Several stations were also erected in the neighbourhood of the place where Danville now stands. . . . New settlements were made under the influence of different leaders, some on the waters of Licking, of Bear Grass, and of Green River, and others in the neighbourhood of Boonesborough, of Harrodsburgh, and of St. Asaphs."¹⁰ "In the fall of 1779 and spring of 1780 seven stations were settled on the Beargrass, near the Falls of Ohio."¹¹

This rapid increase of settlers, consequent upon Clark's victory at Vincennes, brings into strong contrast the great number of people in Kentucky in the fall of 1779 and the few who were there in January, 1778, when he was preparing his expedition against Kaskaskia, and when there were only 102 men and boys able to bear arms in the three Kentucky settlements. Yet the immigration was only beginning.

Anticipating the great movement of people to the state's ungranted lands, the Virginia Assembly (1779) passed an act regulating land titles and prescribing the manner in which they were to be acquired and evidenced.¹²

Endless litigation and a vast crop of enmities amongst the Kentucky people grew out of the entanglements of overlapping and conflicting claims of title under this law; and for this reason the act has been sometimes condemned as a most unwise one by writers who have apparently overlooked the early conditions out of which it grew. In truth, this confusion of land titles in Kentucky was largely brought about by the imperative needs of war, and could hardly have been avoided. It began long before the Revolution and was the inevitable accompaniment of the westward movement of the Virginia frontier people into a for-

¹⁰ Marshall's *Kentucky*, I:89-90.

¹² Hening's *Statutes*, X:35.

¹¹ Doctor McMurtrie, quoted in *History of the Ohio Falls Cities*.

ested wilderness infested by savage enemies. From the earliest times, in order to push protective outposts into the wilderness, large land grants to colonizing companies or individuals were necessary; and the boundaries of the grants had to be more or less indefinite because accurate surveys were impossible.

For over a hundred and fifty years after the settlement of Jamestown there was nothing like a real map of Virginia; and even the map then made by Joshua Fry and Peter Jefferson, father of Thomas, was not based on surveys, but upon observations rarely aided by compass and chain.

To raise troops for the French and Indian War (1754-63) millions of acres of western waste lands along the frontiers were granted them as a bonus. As the lands lay in a little known wilderness, it was only possible to make "blanket grants," each covering perhaps many thousands of acres in a vaguely described region, and to give each enlisting soldier a certificate entitling him to a certain number of acres to be located within the grant. When, after the war, the soldiers came to claim their respective acreages, surveys had to be made amidst unavoidable difficulties. The courses even of the most important streams and mountain ranges were only vaguely known, and often a stream or mountain was known by several names.

The colony was utterly unable to furnish enough competent surveyors to make the surveys, and so each claimant had his own survey made, either by himself or by someone else holding a surveyor's certificate of proficiency—a certificate which apparently almost any man could get by paying a small fee. Even when accurate surveying of adjoining tracts was attempted by different surveyors with compass and chain, the results were often grossly incorrect and conflicting, for compass courses and chain lengths often varied greatly. Ignorant of previous surveys, one surveyor after another would survey and plat more or less the same land; so that when in a subsequent litigation all the plats were compared, they would make a very cobweb of conflicting lines.

Originating as a military necessity, this confusion of surveys and titles continued and increased as each succeeding generation of land claimants became more numerous and surveys multiplied. The Revolution, and the need for more land grants to soldiers, added to the confusion; and so did the great flow of

immigrants to the western country. Many of these immigrants thought there was plenty of land for the taking, and simply took it. They built their cabins, felled or deadened trees to make their little "clearings," planted small "patches" of corn and perhaps a few peas, beans, and pumpkins; and, believing their titles good, were sometimes ready to maintain them, if need be, with their rifles.

The Virginia land act of 1779 recognized certain classes of claims by early occupants, notwithstanding their irregularity, and set forth the steps required to perfect their titles. It also stated the terms upon which new titles to ungranted lands might be acquired. Only a brief indication of some of its main provisions can be given here:

A. Early claims under authorized "*surveys* of waste and unappropriated land made upon any of the western waters before the first day of January 1778 by any county surveyors, . . . founded upon [1] charter, importation rights," or [2] "upon any warrant from the governor . . . for any military service," were declared good and valid. The claims of those two classes were allowed to be perfected by warrants, entries and surveys and the payment of office fees only.

B. Adventurers who had *settled* on unappropriated Kentucky lands *before 1778*, but had failed to take some of the steps required by law to perfect their titles, were allowed 400 acres at \$2.25 per hundred. Villages were allowed 640 acres free of charge and the villagers each 400 acres adjacent to the village at \$2.25 per hundred.

C. The act further provided that "all those who, *since* the said first day of January 1778, have actually settled on any waste, or unappropriated lands on the said western waters, to which no other hath a just or legal right or claim, shall be entitled to the *pre-emption* of any quantity of land, not exceeding four hundred acres, *to include such settlement*;—and all those who, *before* the said first day of January, 1778, had marked out or chosen for themselves any waste, or unappropriated lands, and built any houses, or hut, or made other improvements thereon, shall also be entitled to the *pre-emption* of any quantity of land, not exceeding one thousand acres, to include such improvements."¹³

¹³ Marshall's *Kentucky*, I:87.

To settle conflicting claims of these various classes, a commission, consisting of William Fleming, Edmund Lyne, James Barbour, and Stephen Trigg, was appointed by the Virginia government, and directed to go to Kentucky and there investigate and pass upon the claims and give certificates to those entitled. Many of the findings of this commission have been and others will be published in the *Kentucky Historical Society Register*.¹⁴

“Those claiming pre-emptions, for improvements, whether made before, or after, the first day of January, 1778, either for four hundred, or one thousand acres, were to present their several claims to the commissioners, for adjusting such claims; and if allowed, they were to be certified, to the party; who on lodging his certificate with the register, was to take out a warrant for the quantity of land mentioned—for which forty dollars per hundred acres, was paid.”¹⁵

That price was required of purchasers in general. The lands south of Green River were reserved for future grants to Virginia's soldiers in the Revolutionary war.¹⁶

With the great rush of immigration to Kentucky, the incoming settlers found themselves exposed to danger not only from the Indians, but from living conditions. Fortunately the earliest Kentucky settlements were in the elevated and salubrious Bluegrass region, yet even there hygienic conditions were very bad. Usually the people in a fort relied upon a single spring for all their drinking, cooking, and washing water, and also for watering their horses, cattle, hogs and poultry. At Harrodsburg, Colonel Fleming, a noted physician, wrote in his journal:

“The spring at this place is below the Fort and fed by ponds above the fort so that the whole dirt and filth of the fort, putrified flesh, dead dogs, horse, cow, hog, excrements & human odour all wash into the spring, which with the ashes and sweepings of filthy Cabbins the distress of the people . . . skins to dress, & washing every sort of dirty rags and cloths in the spring perfectly poison the water and makes the most filthy nausious plation of the water imagin-

¹⁴ Volume 21, No. 61, etc.

¹⁵ Marshall's *Kentucky*, *supra*.

¹⁶ Afterwards the lands in Kentucky south of the Tennessee were likewise reserved.

able and will certainly contribute to render the inhabitants of the place sickly.”¹⁷

Boonesboro is described by the Colonel as “a dirty place in the winter, like every other station.”

The new, small and crude Falls settlement, named “Louisville” in honor of the French king, lay at the edge of an extensive and nearly flat area interspersed with many shallow ponds, and was infested with mosquitoes and malaria. Indeed, all the other river-bottom posts, where the troops of the Illinois Regiment were, for strategic reasons, stationed during the Revolution—Kaskaskia, Cahokia, Vincennes, and afterward Fort Jefferson on the Mississippi—were likewise infested. In all of them chills and fevers sapped the vitality of settlers and troops alike. Colonel Fleming’s journal thus describes health conditions at the Falls November 14, 1779:

“We went through some ponds and some good flat land and reached the falls in Six miles—there is a great number of Cabbins here and a considerable number of Inhabitants, tho many of them were absent—there is a pond runs just beyond the Town the water of which drains through the earth & breaks out on the River bank, which is the water used generally by the Inhabitants & is not wholesome. the river, when the Channel is covered, is $\frac{3}{4}$ of a mile broad, but at this time the bed was dry for $\frac{2}{3}$ rds of the breadth, which contributed to the sickness of the Inhabitants, there being a great number of them complaining of the fever & Ague and many of the Children dying. the banks of the river are 40 or more feet high and an Island opposite to the Town of about 50 Acres which overflows almost entirely in freshets.”¹⁸

In this age of safety and plenty, it is almost impossible to realize the hardships endured by the inhabitants of Kentucky at that early time. When hostile Indians were prowling to kill and burn, the scattered settlers were forced to take refuge with wives and children in the nearest forts; and woe to those who failed to do so! Loading their horses, if they had any, with such provisions, utensils, and poultry as they could carry, and driving their cows and such hogs as could be hurriedly gathered, they would hasten from their clearings to already overcrowded forts

¹⁷ *Draper MSS.*, 2 Z Z 75, holograph.

¹⁸ *Draper MSS.*, 2 Z Z 75.

and there stay until it seemed safe to return to their homes. But inside the fort they often found life far harder, and sometimes even more dangerous, than on their scattered clearings. Their food would soon run short, and, because of the presence of Indians, it could not be replenished by hunting game; for that was a perilous undertaking and yielded at best only a scant temporary supply. Soon disease would follow famine and sometimes proved more destructive than the savages.

When in addition to these ills we consider the tiresome confinement in the forts of all sorts of people (most of them rough men, women and children of lower grades, but some who had been used to the comforts and amenities of eastern colonial society), the absence of any separate conveniences for the sexes, the lack of sewerage to dispose of filth, and of medicines and doctors for the many sick and wounded—we may realize how wretched life in these forts must have been. Often it was so wretched as to drive many to their clearings while the Indians were still lurking near; and many were those who paid for the venture with their lives.

One of the first results of increased Indian hostility, following Bowman's attack upon the Shawnees, was the disastrous defeat of Col. David Rogers and his large party going up the Ohio in the fall of 1779. He was returning from New Orleans, where Governor Henry had sent him upon an important mission the year before. With a strong extra guard furnished him at the Falls, he had reached the mouth of the Licking when outnumbering Shawnees attacked his little fleet and killed him and all but thirteen of his men, who were carried off prisoners. Notable amongst these were Col. John Campbell and Capt. Abraham Chapline.

Colonel Rogers' mission at New Orleans had the double purpose of securing from Galvez, the able young Spanish governor of Louisiana, a loan to Virginia of 200,000 piastres, and "Consulting with [him] as to the best location on the Mississippi for an American garrison."¹⁹ Governor Henry early saw the importance of securing a post on that river, near the mouth of the Ohio, not only to command the two great rivers, but to establish, by actual possession, Virginia's claim to extend to the Mississippi;

¹⁹ *Draper MSS.*, 60 J 325.

for he rightly thought Spain might claim ownership of the region east of that river at least as far north as the Ohio.

Galvez was too shrewd to consent to Governor Henry's proposal; but the next year Jefferson became governor, and determined to found and fortify the post without asking Spanish consent. In the summer and fall of 1779 he corresponded on the subject with Clark, who seems to have suggested it. Under Jefferson's direction, in September, 1779, Clark ordered the calling of "artificers . . . to carry on the works as well as other inhabitants . . . the whole to be under pay as militia as long as necessary."²⁰ In January following, Jefferson sent him more formal instructions for erecting the fort and securing settlers; and also sent him land warrants for 168,000 acres to be issued in lots of 560 each as bounties to enlisting settlers.²¹

At this time no one knew whether Virginia's southern boundary line would strike the Mississippi above or below the mouth of the Ohio; and to settle this doubt, that state and North Carolina sent commissioners to survey the line westwardly. The commissioners for Virginia were Dr. Thomas Walker and Daniel Smith, while those for North Carolina were Col. Richard Henderson and William Bailey Smith. Their work, and Virginia's founding of the proposed post were, however, delayed by unprecedented cold weather during the winter of 1779-80. It was long called the "Hard Winter," and remembered as one of great suffering. Daniel Trabue thus described it:

"It begun about the first of November and continued until nearly March. The turkeys were all dead; no corn, or very little in the country. The people was in great distress; many in the wilderness frost-bit; some dead. Some eat of the dead cattle and horses. When winter broak, the men would go and kill buffaloes and bring them hom to eat; but they were so poore a number of people would be taken sick and did actually die for want of solid food."²²

With the ending of the "Hard Winter" the Virginia and North Carolina boundary commissioners proceeded to run the dividing

²⁰ Virginia State Library (*Illinois Papers*, loose); *Virginia Calendar State Papers*, I:331.

V:145. Some were used and the rest returned to the state treasurer.

²² Daniel Trabue's *Narrative*, *Draper MSS.*, 57 J 13; *Colonial Men & Times*, by Lillie Harper.

²¹ *Illinois Historical Collections*,

line between the states, but soon disagreed and gave up the work. Colonel Henderson thereupon returned to North Carolina, where he became associated with Robertson in founding a new and advanced settlement at the Great French Lick on the Cumberland River—now Nashville, Tennessee.²³

On April 14, 1780, Colonel Clark left the Falls to go to the "Iron Banks" on the Kentucky side of the Mississippi,²⁴ about twenty-five miles below the mouth of the Ohio,²⁵ where he founded the fort ordered by Jefferson. To support a garrison at the new post, settlers were needed, and land grants were made to attract them. A village sprang up by the fort which was expected to become a thriving town. The inhabitants named it Clarksville and elected five leading men—James Pigot, Ezekiel Johnson, Henry Smith, Joseph Hunter, and Mark Iler—trustees to conduct its government.²⁶

Evidently unaware that Jefferson's main aim in founding Fort Jefferson was to forestall Spain's claim to the lands east of the Mississippi, some writers have thought the building of the fort a blunder because it brought on a conflict with the Chickasaws. The contemporary records, however, show that those Indians had been actually at war with us before the fort was either ordered or built.²⁷

²³ The lick had been supposed to lie within the bounds of Virginia, and Colonel Clark had purchased it, with 3,000 surrounding acres, in 1776. (Clark to Henry, March 9, 1779, *Illinois Historical Collections*, VIII:304.) After the British had been driven from the Illinois and the Indians quieted, Robertson, during the "Hard Winter," led a party to the Great French Lick and proposed founding a settlement if it should be within the bounds of North Carolina; but he first journeyed over to Vincennes to see Clark, in order to avoid possible conflict with him over title. By this time Clark had been with the Virginia boundary commissioner (*Smith's Journal*, *Draper MSS.*, 46 J 8), and had doubtless become sat-

isfied that the French Lick lay far south of Virginia's southern boundary; and he therefore made no further claim to it, although he had "been at considerable expense to improve" it. (*Illinois Historical Collections*, VIII:304.)

²⁴ *Daniel Smith's Journal*, *supra*.

²⁵ *Id.*

²⁶ *Draper MSS.*, 50 J 44.

²⁷ When the Americans first entered the Illinois country the Chickasaws were allies of the British. Late in 1778 Clark sounded them with a view to reconciliation, but to no purpose. (*Illinois Historical Collections*, VIII:261.) The April following, writing to Governor Henry, he said it "would be well . . . to give them a dressing." (*Id.* 172.) They were arranging that year with

While work was going on at Fort Jefferson many more people from the East were flocking into Kentucky—so many that in 1780 the population was said to have grown to over twenty thousand.²⁸ No one really knew what the number was, for no count was made; but it had probably multiplied more than a hundred fold since early 1778, when there were reported few more than a hundred all told. Perhaps nine-tenths of the western immigration was to Kentucky, although many settlers went to the Holston region, and some, as we have seen, were led still farther west by Robertson to the “great bend” of the Cumberland at Nashville. Most of them came to get homes, but many to secure large tracts of land and hold them for future advance in value. Many came down the Ohio, and still more over the mountains through Cumberland Gap. The “land trade,” as it was called, became an exciting one. Within a few weeks after the breaking of the “Hard Winter” the land office at Harrodsburg was opened, and on the first day of registry over 1,600,000 acres were entered.²⁹

This startling growth of population, made possible by the victory at Vincennes, had tremendously important results for Kentucky and the nation. One was the complete reversal of the relative numbers of British and American whites in the West. Whereas in 1778 Great Britain’s white subjects, along the west-

Hamilton to sweep the American frontiers to Pittsburgh; had agreed to join him against Kentucky in 1779, and were engaged in waylaying Americans on the Mississippi both years.

Col. John Todd wrote Governor Jefferson that “Isaac Bowman, with 7 or 8 men & one family set off from Kaskaskia the 15th nov: last in a Batteau, attended by another Batteau with 12 men & 3 or 4 families in it, bound to the falls of Ohio. . . . Bowman’s Batteau fell into the hands of the Chickasaw Indians, & the other arrived in March or April at the French Lick on Cumberland, with the account that Bowman and all the men except one Riddle were killed & taken.” (1780,

Virginia Calendar State Papers, I:358.)

In May, 1779, the Chickasaw chief sent Clark word: “We desire no friendship with you and only desire you will inform us when you are coming and we will save you the trouble of coming quite here for we will meet you half way.” (*Michigan Pioneer Collections*, IX:481; *Virginia Calendar State Papers*, III:345.)

²⁸ McAfee MSS., Durrett Collection, University of Chicago.

²⁹ Floyd to Preston, May 5, 1780, *Draper MSS.*, 17 CC 124; I. Hite to I. Hite, Sr., *Author’s MSS.*; Volume 21, *Kentucky Historical Society Register*, January, 1923; Fleming’s Journal, *Draper MSS.*, 2 ZZ 74-5, holograph.

ern Great Lakes and south of them to the Ohio, outnumbered the western American settlers perhaps ten to one, in 1780 the Americans probably outnumbered the British ten to one; and with this change in numbers the fighting strength of the two sides was likewise reversed. It was this which enabled us to win the whole Revolutionary West. The national significance of this great fact has been strangely overlooked by nearly all writers of Revolutionary history.³⁰

³⁰ Thus Roosevelt says: "If Clark had failed . . . to conquer and hold the Illinois and Vincennes, it is overwhelmingly probable that the Ohio would have been the boundary between the Americans and the British." (*Winning of the West*, III:282.) To the contrary, it seems overwhelmingly probable

that had Clark failed, Kentucky would have been lost and the Alleghenies would have been the western boundary of the United States—if, indeed, independence could have been won without his victories and consequent immigration to the Mississippi Valley.

CHAPTER XIV

KENTUCKY IN REVOLUTIONARY DIPLOMACY

Passing from occurrences in Kentucky, attention will now be directed to the diplomacy of the Revolution, which made a fundamental part of the state's history, although one which seems never to have been adequately explained. In truth, the diplomatic conflict over Kentucky between Spain, France, Great Britain and the Continental Congress during the Revolution, was hardly less important in the state's history, or less critical, than the military conflict over it with the British and Indians. The same is no less true of the political struggle in the Continental Congress between Virginia and the states north of her over her western charter territory—a subject which will be discussed in later chapters.

Whether Kentucky should be a part of the United States, or belong to Spain, or Great Britain, was a question which remained doubtful until the treaty of peace ending the Revolution. Whether it should be a part of Virginia, or be part of a great western territory appropriated by the Continental Congress for the benefit of all the thirteen states, was never definitely settled until the year following the Revolution.

It has been seen that Spain owned New Orleans, a small region east of it, and the great country west of the Mississippi to the Rocky Mountains, as well as Mexico and most of the islands in the Gulf and Caribbean Sea. Spanish statesmen early foresaw that a growing trans-Allegheny American population would endanger their King's possessions in Louisiana and Mexico; and they therefore looked with extreme jealousy and fear upon the league of the thirteen young republics. They realized, too, that royalty everywhere would be endangered by an example of successful revolution, overthrowing monarchy and founding a great free government. Count d'Aranza, the Spanish ambassador at Paris, wrote prophetically to his King:

"This federal republic is born a pigmy. A day will come when it will be a giant; even a colossus formidable to these countries. Liberty of conscience, the facility of establishing a new population on immense lands, as well as the advantage of a new government will draw thither farmers and artisans from all nations. In a few years we shall watch with grief the tyrannical existence of this same colossus."¹

Throughout the Revolution, and even after Spain joined France in the war against Great Britain, she refused to make any alliance with the American states, or acknowledge their independence. With reference to them, her diplomacy was constantly controlled, and with reference to Great Britain and France, was mainly influenced by her desire to protect her Louisiana possessions and extend her dominion over the eastern part of the Mississippi Valley.

Nor is this all. In dealing with the American Congress, the diplomacy of France was directed to aiding Spain to secure our western country. This policy France pursued at first to gain, and afterward to hold, Spain as an ally against Great Britain. Vergennes was the minister who directed French diplomacy throughout the Revolution; and it was both selfish and insincere. The struggle of America for freedom won the disinterested sympathy of many of the French people, and some, like Lafayette, of great influence; but their government (like other governments throughout the history of nations) was little influenced by friendly sympathies, but sought only the advantage of France. To that end it was ever ready to sacrifice American interests.

So early as 1774 Vergennes foresaw the coming rupture between Great Britain and the colonies, and next year sent a secret agent, Bonvoloir, to Philadelphia. He was instructed "to visit the chief insurgents, to acquire from them all the information he could and, without in any way committing his principal, let them understand that if war ensued, they might have succor from France."²

Bonvoloir was introduced to Franklin, Jay, Harrison, Dickinson and Johnson, the secret committee of Congress. They "met at an appointed spot after dark, each of them going to it by a

¹ Winsor's *Critical and Narrative History*, VII:152, n.

² *Diplomatic Correspondence of the Revolution* (Francis Wharton), I:333.

different road," and sought to learn from him whether Congress could be assured of aid from France—particularly much needed military engineers, clothing, guns and other munitions.³ He skillfully led them to expect these things, yet disclaimed any authority from his King.

On receiving Bonvoloir's report, Vergennes had his assistant, Gerard de Rayneval, draw up a report on the policy which France should pursue with reference to the conflict between Great Britain and her American colonies. De Rayneval's conclusions were that, Great Britain being the natural enemy of France, no opportunity should be lost to weaken it; that the revolt of the American colonies could be effectively used to that end by aiding them; that it would impair British and increase French commerce and ultimately lead to the recovery by France of the St. Lawrence fisheries, and perhaps of Canada. He then answered a number of possible objections to the policy of aiding the colonies, and recommended assisting them by several secret methods—some of which were afterwards adopted.⁴

Vergennes then (March 17th, 1776) submitted to his ministerial colleagues a paper of his own, on the same subject, called "Considerations." After setting forth the motives impelling France to cripple the overweening power of Great Britain, he argued that the time was not yet ripe for open war, but proposed, as a line of policy for France and Spain: *first*, they should not commit themselves to the support of the Americans; *second*, they should encourage our Revolution because it would benefit France and Spain; *third*, they should lead Great Britain to believe them sincerely averse to hostilities, so she would feel free to undertake an exhausting war against the colonies; *fourth*, they should secretly aid the latter in order to protract the war and exhaust Great Britain; *fifth*, they should prepare for war with Great Britain; and *sixth*, before the colonies should become exhausted, France and Spain should declare war on Great Britain.⁵

The plan thus laid out, Vergennes carried out. By ways that were dark, the revolting colonies were furnished from France with men, money and munitions to keep alive their insurrection. Neither he nor his agents, in their confidential communications,

³ Id. 334.

⁴ Id. 335-6.

⁵ *Diplomatic Correspondence*, I: 337.

pretended any consideration whatever for America, but to the Americans they professed great friendship.

The hopes and fears of the French ministry alternated with the changing fortunes of the combatants. Vergennes feared the British might seize the French West India Islands, and he eagerly sought an alliance with Spain. To the Spanish minister, Count Florida de Blanca, he suggested that Spain faced a like danger; but the shrewd Spaniard saw his opportunity for bargaining, and declined an alliance until France was willing to aid him to secure the eastern half of the Mississippi Valley for Spain.

In August, 1776, Vergennes, having learned of our Declaration of Independence, and greatly fearing recent efforts of the British ministry to effect a reconciliation with the colonies, urged both the French and Spanish kings to support them openly. Congress also eagerly sought a Spanish alliance and (December 30, 1776) passed a resolution:

"That if his Catholic Majesty will join with the United States in a war against Great Britain, they will assist in reducing to the possession of Spain the town and harbor of Pensacola, provided the inhabitants of the United States shall have the free navigation of the Mississippi and the use of the harbor of Pensacola, &c."⁶

Spain hesitated to enter the war, and soon afterward, when Washington's armies were being hard pressed and the collapse of the Revolution seemed imminent, even Vergennes himself hesitated, lest France should have to fight, single handed, a reunited British Empire.

Deceptive diplomatic exchanges passed between the three European powers. Great Britain proposed to France that each guarantee the American possessions of the other. Spain proposed to mediate between the other two powers "by confining the United States to the Atlantic coast, giving the St. Lawrence Valley, with the Great Lakes, to Britain and the Mississippi Valley, as far east as the Alleghanies, to Spain."⁷ This would have

⁶ Id. II:304.

⁷ Florida de Blanca in February, 1778, declared to Grantham that he had no part whatever in the French councils [?] but offered to mediate by confining the United States to the Atlantic coast, giving the St.

Lawrence Valley to Britain, and retaining the Mississippi Valley as far east as the Alleghenies for Spain. (Grantham to Weymouth, March 12, 1778, *Diplomatic Correspondence*, I:443.)

made Spain's northern boundary pass through Northern Ohio, Indiana and Illinois, and bisect Wisconsin.

All this time Vergennes was waiting for the opportune moment to strike England. When news reached him of Burgoyne's surrender at Saratoga, that moment, he thought, had arrived. France was ready, and her King, Louis XVI, urged his cousin, Charles III of Spain, to join him against their common enemy; but Charles held back, for before joining France, Florida de Blanca wanted a great bribe for Spain. France alone then (February 6, 1778) entered into a treaty of alliance with the thirteen "United States of North America, to-wit:" naming each of them separately as the other parties; for there was no real union of states for France to treat with. The "United States" was little more than a mere name.

The treaty provided that "If war should break out between France and Great Britain," the United States and France "shall make it a common cause—as becomes good and faithful allies;" that "The essential and direct end . . . is to maintain effectually the liberty, sovereignty and independence, absolute and unlimited, of the said United States;" that "If the United States should think fit to attempt the reduction of the British power remaining in the northern parts of America, or in the islands of Bermudas, those countries or islands, in case of success, shall be confederated with or dependent upon the said United States;" that the French King "renounces forever the possession . . . of any part of the continent of North America, which before the treaty of Paris, or by virtue of that treaty, were acknowledged to belong to the Crown of Great Britain, or to the United States;" that "Neither of the two parties shall conclude either truce or peace with Great Britain without the formal consent of the other, first obtained; and they mutually engage not to lay down their arms until the independence of the United States shall have been formally or tacitly assured by the treaty or treaties that shall terminate the war," and finally, they "agree to invite or admit other powers, who may have received injuries from England, to make common cause with them and to accede to the present alliance under such conditions as shall be freely agreed to and settled between all the parties."

Then they unconditionally agree that the United States shall guarantee to France her present American possessions in the Gulf

of Mexico and south of it, and any she may acquire by the future treaty of peace; while France guarantees to the United States "their liberty, sovereignty and independence, . . . and also their possessions, and the additions or conquests that their confederation may obtain during the war from any of the dominions now, or heretofore, possessed by Great Britain in North America; the whole, as their possessions, shall be fixed and assured to the said states at the moment of the cessation of their present war with England."⁸ A separate commercial treaty between France and the colonies was also made.

Secret information of the French treaty of alliance with the United States reached the British ministry almost immediately after it was agreed on, and caused a bill to be offered in Parliament (February 17th) looking to a reconciliation with the colonies. This alarmed Vergennes and he redoubled his efforts to win Spain as an ally. As soon as practicable also he sent Gerard de Rayneval as minister to the American Congress, and (March 29th) gave him confidential written instructions,⁹ which make plain his treachery toward the Americans and the scheme he was arranging with Spain to win for her our country east of the Mississippi. He said:

"There is one point of great consequence to the King, and which will demand all the dexterity of Mr. Gerard—the stipulations to be taken in favor of Spain. He knows that that power has taken no part in the two treaties, though she has not opposed them, and that up to the present time she has said nothing of the conditions on which she may accede to them in the future. However, we have reason to think that she would desire to acquire the Floridas [a term

⁸ *National Documents*, I:72. Phillimore says that the war between England and France, which promptly followed the news of this treaty, "was not on account of the mere establishment of diplomatic relations between France and the North American colonies, but on account of the long tissue of dark and treacherous machinations which France had begun to weave, under the veil of the strongest profession of amity and good will,

against the peace, honor and interest of Great Britain on the first appearance of discontent in America. . . . The fact rests upon the unquestionable authority of the memoirs, since published, of the agents, employed by the French government to excite the rebellion in North America." (Phillimore's *International Law*, II:26.)

⁹ *Diplomatic Correspondence* (Wharton), II:523.

which we shall see Vergennes and Florida de Blanca made embrace a vast extent of country between the Alleghenies and Mississippi, including Kentucky].

"The Floridas enter into the plans of conquest of the Americans. It will therefore be necessary to prepare them for the contingency of a surrender of their claims. The King charges Mr. Gerard with this in a particular manner, and his Majesty leaves entirely to his prudence the means to be employed to attain that object.

"It is only necessary to remind him that he must carefully avoid speaking in the name of Spain; for his Catholic Majesty has, as yet, said nothing relative to his intentions and views. Moreover Mr. Gerard knows the principal motives that make Spain desire the Floridas. He will give such efficacy to them as is in his power; but if he cannot succeed in securing the whole territory, he will strive at least to obtain Pensacola and such parts of the coast as are considered to be the most suited to the interests of the Court of Madrid."

This was plain perfidy. The trans-Allegheny country Spain coveted was chartered territory of American states; parts of it were in their actual possession; other parts France had agreed to aid them in conquering from the British and guaranteed to them; yet, to win Spain as an ally, Vergennes was here plotting to wrest the region from the Americans and secure it for Spain.

His instructions to Gerard continue:

"The envoys of Congress have proposed to the King to enter into an engagement in favor of the conquest by the Americans of Canada, Nova Scotia and the British Floridas, and he has reason to think that Congress has taken this project to heart. But the King has considered that the possession of those three countries, or at least of Canada, by England, *will be an element of disquiet and anxiety to the Americans, which will make them feel the more the need they have of the alliance and the friendship of the King, and which it is not his interest to remove.* In this view his Majesty thinks he had better make no engagement relating to the conquest in question."¹⁰

His Majesty, however, had already solemnly made that en-

¹⁰ *Revolutionary Diplomatic Correspondence*, II:526. Author's italics.

gement. Here was a plain declaration, by the man who directed the policy of France throughout the Revolution and always professed sincere friendship for the American colonies, that his policy was to leave Canada to England in order to keep them in "disquiet and anxiety," and make them continue dependent on France! Yet many American historians have asserted that Vergennes was a true friend to America! When we remember that the treaty expressly provided that the United States might conquer and claim "the northern parts of America" (meaning Canada) and that France should "readily and in good faith join to act in concert for that purpose," Vergennes' bad faith appears Machiavellian.¹¹ For ages a first rule of diplomacy had been to deceive and injure an enemy; but even the moral code of diplomacy had not been understood to warrant the deception and ruin of a trusting ally.

As if to make his duplicity more clear, Vergennes instructed Gerard:

"If Congress proposes it, however, [the conquest of Canada] as is probable, Mr. Gerard will answer that the King will always lend himself with eagerness to everything that may suit the United States, and that he will unite willingly in carrying out their plan of conquest as far as circumstances will permit; but that the uncertainty and the variety of his engagements do not permit him to enter into any formal agreement to that effect—If, however, Congress should become too pressing, and Mr. Gerard should judge that the King could not refuse to coöperate in their views without having his good will and the rectitude of his intentions suspected, he can then acquiesce in their wishes, but give them to understand that the conquest which it is proposed to make is not to be an essential condition of the future peace. Mr. Gerard will himself perceive that the last sug-

¹¹ Vergennes said (October 30, 1778): "France did not desire to see the new republic mistress of the entire continent. It would be better that the English retain Canada, both to prevent too great aggregation of power and to subserve the alliance of the new republic with France. . . . The people of the United States were not to be

regarded as a race of conquerors." To every request of the Americans for French aid in reducing Canada, delays and excuses were interposed; and it has been thought that the unwillingness of the Canadian French to throw off the British yoke was in large part due to secret influence from Paris.

gestion should be made with such delicacy as not to offend Congress."¹²

Gerard followed Vergennes' instructions with both zeal and skill. He became the *confidante* of many influential men in Congress and wielded great influence with that body. After the first three years of war, our need of French help was so great that his expressed wishes, and even his hints, were sometimes received and complied with by Congress with a deference which must have been deeply humiliating; but there seemed to be no alternative.

"As the summer and autumn (1778) wore on, the purpose of France was developed. Franklin, as sole commissioner, was treating with Vergennes in Paris, and Gerard and Gouverneur Morris were conferring in Philadelphia. The object of Vergennes was unmistakable. He would, by confining the new Republic to the Atlantic slope, propitiate Spain, and by giving the region north of the Ohio, with Canada, to England, he would establish a constant menace between the colonies and the mother country and cripple the future of the nascent Republic. So he talked with Franklin with as much bland concealment of his intention as he could, while he instructed Gerard to prepare Congress for submission to Spain's demand. France at this time had eighty ships of the line and sixty seven thousand sailors and for ten years she had been drilling ten thousand gunners for her navy. Nevertheless, she urged that England with her one hundred and fifty ships of the line (and two hundred and twenty eight in all) was an overmatch, unless the sixty great ships of Spain could be added. D'Estaing, with his fleet, had not certainly, during the summer, justified in American waters the hopes which had been entertained. Therefore it was necessary for America, as Vergennes represented, to abate her territorial pretensions and secure the alliance of Spain for a common good.

"By October (1778) it seemed as if Vergennes had brought Florida Blanca to consent to join the alliance on certain conditions. These were that the war should continue till Gibraltar was gained for her, either by capture, or by agreement at the peace; and that America should agree to her having Florida and the trans-Allegheny region. . . .

"Spain meanwhile was toying with Grantham [the British envoy] at Madrid, professing a desire for alliance

¹² *Diplomatic Correspondence of Revolution* (Wharton), II:256.

with England and suggesting . . . a long truce with her colonies. . . . At the same time she was shuffling with France and waiting the results of Gerard's intrigues at Philadelphia, buoyed up the while by the hope of regaining something of that imperial dominion in the New World which the bull of demarcation had assigned her at the end of the fifteenth century.

"While Vergennes (Feb. 12) was submitting to Spain a proposition to fight England unceasingly until America's independence was secured, leaving Spain's aspirations to be satisfied by wresting something from America in the future, Florida Blanca set no less a price on the adhesion of Spain than the old demand of Gibraltar."¹³

To get Congress to give up its claims to the western country and the navigation of the Mississippi, Gerard played on the needs of Congress of further money aids from France, and aroused its fears of an alliance between Spain and England unless Spain's aims in the Mississippi Valley were promptly gratified. With many professions of the good faith and benevolent intentions of his royal master toward America, and his determination to demand its independence, as the "one essential" feature of the treaty of alliance, he insisted that Congress must hasten to authorize an envoy to agree to such terms of peace with Great Britain as our "good ally," the French King, would make for us. It would of course have been dictated by Vergennes and would have given Spain and Britain the whole country west of the mountains.

He told Congress it was reported that the United States claimed the right to make a separate treaty of peace with Great Britain, notwithstanding the treaty of alliance with France.¹⁴ Congress indignantly repudiated the charge. Shortly afterwards (January 10, 1779) he wrote its president,¹⁵ complaining that its delay to appoint a duly empowered peace envoy was equivalent to calling "in question the solidity, and even the existence of the alliance."¹⁶ This was evidently intended as a hint to Congress that, unless it promptly empowered someone to treat for peace in concurrence with the French King, the latter might consider the alliance at an end and make a peace to suit himself!

¹³ Winsor's *Western Movement*, 158, 160.

¹⁴ December 7, 1778. *Diplomatic Correspondence*, II:855.

¹⁵ His letters were addressed to its president.

¹⁶ *Id.* III:16.

In view of the distressing dependence of Congress upon France for money, men and supplies, the intimation was well calculated to alarm. Congress, however, was slow to act upon Gerard's suggestion. A month later he wrote it a far more pointed letter. Stating that he had received "a formal order from the King his master to make known to Congress" that the King of Spain was making his final offer of mediation to England, and was showing "a disposition favorable to the alliance," he said:

"His majesty thinks that, while fulfilling the duties of the alliance by this confidential communication, he ought to invite and urge Congress to furnish, immediately, with the necessary powers and instructions, the person or persons whom they shall think proper to authorize to assist in the deliberations and in the conclusion and signing of the treaty."

Despite the diplomatic suavity of the language, this statement, rendered in plain English, meant that by giving this notice to Congress, the King was "fulfilling the duties" required of him by his treaty with us, and that if Congress did not choose to be represented at the making of a treaty with England and Spain, he would be free to make one to suit himself.

"His majesty trusts that Congress will perceive the inestimable value of time in a juncture so critical and so important, and that the injuries caused by any delay would be irreparable both to the alliance and the allies."

In other words, France would sustain irreparable injury by the delay of Congress to join her in making peace and hence would be absolved from her obligation to make no peace without the concurrence of the United States. Then follows the main point of the wily minister's communication:

"His Majesty, while engaging in everything that can hasten the happy moment in which America can enjoy peaceably internal and external prosperity, which is the object of the revolution and the limit of his majesty's wishes, has instructed the undersigned to suggest to Congress that, at a time in which they are employed in fixing their political existence, it seems to belong to their foresight to consider the sentiments of the States as to the peace in relation to Spain; and they will perhaps think that the means of preventing all future discontents merits their attention, and ought to be one of the subjects of the most positive and definite instruc-

tions which the States will give for the conclusion of the peace."¹⁷

In a separate letter the same day, evidently to win the gratitude and hopes of the bankrupt Congress and its compliance with his suggestion, he told it that "his Majesty has been pleased to grant a sum of 750,000 livres as a new proof of his friendship for the United States."¹⁸

Six days later he appeared in person before Congress and urged his King's desire "that the United States would speedily put themselves in a condition to take part in the negotiations for peace apparently about to take place, . . . and pressed the utmost dispatch."¹⁹

Yet Congress was still slow to comply with Gerard's demand. Its abler leaders knew the future greatness and real independence of the United States would depend on holding the western country, and that its possession by Great Britain and Spain would spell the doom of the infant republic. Gerard's communications were referred to a committee which, much to his discomfiture, recommended that Congress instruct its peace envoys that it was "necessary for the safety and independence of the United States" and "the *ultimatum* of these States," that any treaty of peace should provide:

"(1) That the bounds of the United States be acknowledged and ratified" as extending to the Mississippi River on the west, and on the south to the boundary line between Georgia and Florida. "(2) That every port and place within the United States, and every island, harbor and road to them, or any of them belonging, be absolutely evacuated by the land and sea forces of his Brittannic Majesty and yielded to the powers of the states to which they respectively belong."²⁰

Gerard's dismay may be imagined. Two weeks later he wrote Congress complaining that he had received no word indicating "the manner in which Congress has received" his answer to its

¹⁷ February 9, 1779; *Diplomatic Correspondence*, III:39. No such "formal order from the King" to Gerard is shown in this exhaustive work. Quaere: Was any ever really sent him, or was it a diplomatic in-

vention to serve his purpose and alarm Congress?

¹⁸ Id. III:40.

¹⁹ Id. 49.

²⁰ February 23, 1779. *Diplomatic Correspondence*, III:58.

request that France should uphold its waning credit by keeping "the rate of exchange on American dollars at 900. percent."²¹ The money needs of the bankrupt Confederation made Gerard's strongest lever to force Congress to comply with his demands.

Again two weeks passed without any action on his request for an authorized peace envoy. Gerard was restless and nettled; for if Congress adopted the boundary *ultimatum* recommended by the committee, it would upset all the deep-laid plans of Vergennes and Spain. Tiring of persuasion, he resorted to driving. He addressed still another letter to Congress (March 17) in which he complained bitterly of its five months' delay in acting on his King's urgent request, warned it of a threatening British campaign, and said:

"Every day's delay increases the obstacles to the success of the advantageous plan which the King has communicated to the United States. To prolong the deliberation upon peace may be to reject it. His majesty, who thinks he has deserved the confidence of the United States, believes, moreover, that he has a *right*, after the assurances which Congress have so often repeated with regard to the uniformity of sentiments on the subject of his alliance with the United States, to hope that this subject will be treated with the promptness which the juncture requires."²²

Two days later Congress gave its answer, and it was unmistakable. It was more. Considering our desperate situation and dependence on France, it was a very bold one. It adopted its committee's recommendation, and as an *ultimatum* demanded boundaries to the Mississippi and Florida (latitude 31°) and that every place within them be "yielded to the powers of the states to which they respectively belong."²³

Other *ultimata*, including the Newfoundland fisheries, were debated for several months longer before Congress elected peace envoys and gave them instructions. Meantime Gerard, greatly chagrined, endeavored to get it to abandon its boundary *ultimatum*. On May 3rd he wrote it that he had learned "that the negotiation, which has been the overtures [he] has had the honor to make to the Congress. . . . for nearly three months, continues, and that his . . . court earnestly desires that Congress would

²¹ Gerard's unanswered communication is not given.

²² Id. III:84. Italics here not in original.

²³ Id. 88.

be pleased to take prompt measures to take part in said negotiation as soon as circumstances shall have brought it to a proper state of advancement, which may happen any moment."²⁴

Three days later he angrily wrote that he could not

"conceal from the Congress . . . the perplexity under which he labors with regard to informing his court of the delays which the negotiation, commenced in the month of February last, meet with. It must be allowed that no affair so important and so pressing has ever experienced so much delay and . . . he can see no reason for warning France and Spain against the sinister interpretations with which attempts are made to inspire them in regard to this conduct."

Gerard here referred to the old charge that Congress contemplated violating its treaty obligations by concluding a separate peace with Great Britain—a charge it had already indignantly denied.²⁵ His broad intimation of his belief that it was true must have been regarded as insulting; but Congress chose to ignore it. His letter continues:

"The court of France has received intelligence that England was resolved to send a considerable re-enforcement of troops to . . . America, to carry on the war there with all possible vigor, in order to proceed to the conquest of America at the same time by force and by intrigue. [Here he was again trying to scare Congress into complying with his demand.] His Majesty, adhering scrupulously to the spirit and principles of the alliance, which has the independence of the United States as an essential object, is always resolved to assist America by all the means that the resource of his Kingdom and the general state of affairs will permit him—to devote to this grand object, without being turned from it by the idea of any conquest for himself. [Next he hints that America must not expect French aid in conquering the western country from Great Britain.] . . . The confidence which the King places in the reciprocal attachment of the United States of America to the alliance can alone induce him to determine upon proceedings which are useful only to America, burdensome to France, and destitute of all advantage to her. His Majesty hopes to receive reciprocal proofs of these sentiments and feelings, but he neither de-

²⁴ Id. 154.

²⁵ Id. II:425, 856.

mands nor expects anything for himself on the part of Congress."²⁶

Read between the lines, Gerard's letter means: *first*, that France had only obligated herself to fight for our independence, not to extend our western boundaries by conquest; *second*, that we must not expect further money aid for that purpose unless we prove our confidence in the King by appointing an envoy with power to conclude a peace treaty in concert with him. To Vergennes himself was to be left the task of inducing the envoy to consent to such a treaty as would indeed secure American independence, and thus weaken and humble England, but which would give Spain most or all the Mississippi Valley.

Two days later, Gouverneur Morris moved Congress to agree to a treaty of peace with England which would simply grant our complete independence with no demand whatever as to boundaries;²⁷ but the resolution was promptly voted down. Gerard was getting desperate, and on May 22nd addressed another long letter to Congress and warned it that "the alliance, unless victorious, cannot dictate terms to the common enemy," and that his King's treaty obligation to us was only to continue the war against England until our independence was acknowledged; and then added these exceedingly significant words:

"If England immediately agrees to this essential condition, his most Christian Majesty will have fulfilled all his positive and direct engagements in relation to the conclusion of peace. . . .

"The United States have neither title nor right to require

²⁶ Id. III:156-8.

²⁷ *Diplomatic Correspondence* III: 159-60. Morris was one of many northeastern men who had little idea of the value of the great western country. He was reported as saying to Gerard "that many of his colleagues thought it was time to pass a law, *de coercendo imperio*, that to extend the territory of the United States farther to the south and west would be rather to weaken than confirm the Union, and that the poverty and vigor of the North were the best safeguards of the Re-

public. He said these same persons considered it for the interest of the Confederation that the navigation of the Mississippi as high up as the mouth of the Ohio should appertain exclusively to his Catholic majesty . . . that the inhabitants of those immense regions, whether English or Americans, having an outlet down . . . the Mississippi . . . would be in a condition to domineer over the power of the United States . . . and would in the end render themselves independent." Id. 807.

anything more and . . . if they wish to persuade him to further engagements ["to lend them assistance to which he is not obliged by the treaty"] it can only be voluntary on his part and by uniting *reciprocal counsels*, . . . as is proper for *good and faithful allies*. . . . The success of the war being alone able to fix the fate of empires, it has been found impossible, on concluding the treaty of alliance, to determine the possessions that the United States may obtain on making peace; consequently the engagement of France can only be conditional and eventual on this subject; . . . She is not now held to any particular engagement in relation to these possessions, whether real or pretended."²⁸

Gerard then intimates that our western "pretentions . . . were founded only upon far-fetched inductions subject to discussion and contradiction."

There could be no misunderstanding this letter. It plainly meant that France considered itself free to make a treaty of peace with England without any provision for extending or even fixing the boundaries of the states, and was a threat that, unless Congress was ready to make a treaty agreeable to France, it might expect to be left to fight England single-handed.

While Congress was being thus urged to appoint a fully empowered peace envoy, Count D'Estaing's French fleet was in North American waters. Gerard let it be understood that its sorely needed aid would depend on compliance with his demands. Five days after his long letter he wrote Congress that "if Count D'Estaing does not carry into execution the plan of coming upon the American coast, it can only be attributed" to its delay in complying with the King's demand! Congress, however, still went on debating its own peace terms (about fisheries, etc.) and made no change in its *ultimatum* about boundaries. July 12th he appeared before it again, in person, to make still another statement, which, at the suggestion of the president, he reduced to writing. In it, after saying "the court of London, showing on one side dispositions to a reconciliation with France, rejects . . . the very idea of a formal and explicit acknowledgment of the independence of the United States," Gerard suggests "the manifest and striking necessity of enabling Spain, by the determination of just and moderate terms, [meaning a surrender to

²⁸ Id. 174, May 22, 1779.

her of our western country] to press upon England with her good offices" and that "without delay proper terms should be offered to his Catholic Majesty in order to reconcile him perfectly to the American interest."²⁹

In vain! On August 14th Congress, by unanimous vote, adopted "Instructions to the Commissioner to be appointed to negotiate a Treaty of Peace with Great Britain," and in them our boundaries were required to extend to the middle line of the Mississippi on the west and to the thirty-first degree of latitude (the Georgia-Florida line) on the south.³⁰ This definitely settled the stand of Congress as to boundaries. Gerard still tried to upset it, and several resolutions were offered to that end; but they were voted down.³¹ Jay was elected "Minister plenipotentiary to negotiate a treaty of alliance and commerce" with Spain, and John Adams "for negotiating a treaty of peace and a treaty of commerce with Great Britain."³²

Sick, disappointed, and angry, Gerard asked to be recalled to France, and left on the same ship with Jay. Chevalier Luzerne became his successor.³³

²⁹*Diplomatic Correspondence*, III: 248.

³⁰ Id. III:293.

³¹ Id. 310 et seq., 343, 353. (Instructions.)

³² Id.

³³ Id. 408, received by Congress November 17, 1779.

CHAPTER XV

DUPLICITY OF SPANISH DIPLOMACY

Until Gerard left America, little mention was made in Congress, and none by him, of our claim of right to the free navigation of the Mississippi to the sea. But henceforth our diplomatic controversy with Spain and France often related, or professed to relate, to the navigation of the Mississippi rather than the extension of our boundaries to it. Spain realized that if she could not gain our western country, she could prevent, or at least greatly retard, its development, and might ultimately detach it from the United States, if she could close the great river, which was the only available outlet for western products to the sea and world markets.

In the instructions of Congress to Jay for a treaty of alliance with Spain, he was told he could include a proviso that the King of Spain might conquer the Floridas (meaning below latitude 31°) for himself, and that the "United States will guaranty the same to his Catholic Majesty, *provided always* that the United States shall enjoy the free navigation of the river Mississippi into and from the sea."¹ Further, he was directed "to solicit a loan of five million dollars. . . . But before you make any proposition to his Catholic Majesty for a loan, you are to endeavor to obtain a subsidy in consideration of the guaranty, aforesaid, of Florida to him."²

After a dangerous voyage by way of the West Indies, Gerard and Jay arrived (January 22, 1780) at Cadiz—Jay thoroughly disgusted with his disgruntled companion. Disappointed and in

¹ He was directed also "to endeavor to obtain some convenient port or ports below the thirty-first degree of latitude on the river for all merchant vessels, goods, wares and merchandise belonging to the inhabitants of these states." Octo-

ber 13, Witherspoon and Morris moved to recede from our demand of free navigation, but the motion was lost, six to four.

² *Diplomatic Correspondence*, III: 353.

ill health, the Frenchman had become almost unbearable on ship-board. Jay at once dispatched Carmichael, his secretary of legation, with instructions to present his letters to Count Florida de Blanca, the Spanish minister at Madrid, and prepare the way for his reception. "In speaking of American affairs," he said, "remember to do justice to Virginia and the western country near the Mississippi. Recount their achievements against the savages; their growing numbers, extensive settlements and aversion to Britain for attempting to involve them in the horrors of an Indian war."³ After arriving in Spain, Jay was compelled to make many requests and wait over two months for permission to proceed to Madrid. He arrived there on April 4th.

How helpless our American envoys at first were in contending with the duplicity of the experienced diplomats of Spain and France often appears in their letters. Jay had written Arthur Lee, who had been concerned in preliminary negotiations with Spain, asking "to be informed of the measures he might have taken." In reply Lee innocently gave him this advice:

"You are to negotiate with a people of honor and a ministry of wisdom. They will propose fairly and perform faithfully. You will not be embarrassed by intrigue, at least none of Spanish origin, nor will it be advantageous to employ any."⁴

How wide of the truth this advice was Jay was soon to learn. His reports to Congress and its secretary of foreign affairs tell the story of his experiences. At Madrid, Carmichael gave him a long list of questions from Florida Blanca, seeking information as to the military and economic situation of America, which he said would be a necessary preliminary to negotiations. Jay promptly answered at great length and waited.⁵ Waiting indeed was to be his chief occupation in Spain for a very long time to come. The court had moved from Madrid to Aranjuez. Jay followed it there, and promptly wrote the prime minister, giving him recent news from America, and awaited his pleasure. Twelve days passed and then he was given his first audience. This was after nearly four months of waiting!

³ Id. 473.

⁵ Id. 717, April 25th.

⁴ March 17, 1780, *Diplomatic Correspondence*, III:555.

Count Florida Blanca said he wished to talk with him on two points. The first was about money. He said Spain had none, at present, having used its funds in building up its navy. He dwelt on his Majesty's interest in the welfare of America, his outlays to coöperate with it, his refusal in the last year's negotiations with England to sacrifice the American interest, and then intimated that, if the United States had not so long delayed entering into peace negotiations, Spain would have given them the help they needed. Although this was strikingly in line with Gerard's attitude towards Congress, Jay did not then suspect that Florida Blanca and Vergennes were in collusion with respect to securing America's western lands for Spain. Jay in his report to Congress said:

"The Count then proceeded . . . to the treaty in contemplation between Spain and America, observing that he would be candid and frank, . . . that it was always his disposition to do so with those from whom he expected the same conduct. He then proceeded to observe that there was but one obstacle from which he apprehended any great difficulty in forming a treaty with America, and plainly intimated that this arose from the pretensions of America to the navigation of the Mississippi. . . . He expressed his uneasiness on this subject and entered largely into the views of Spain with respect to the boundaries . . . they wished to fix by treaty, which he hoped would be a perpetual bond between the two countries. He spoke amply of the King's anxiety, resolution and firmness on this point . . . from which his majesty would never recede.

"Mr. Jay here took occasion to mention that many of the states were bounded by that river and were highly interested in its navigation, but observed that they were equally inclined to enter into any amicable regulations which might prevent any inconveniences."⁶

The interview closed with a plain intimation that Spain would furnish money and other aid, if its boundary demands and exclusive control of the Mississippi were conceded.

Jay was much impressed by the "fairness, candor and frankness" of Florida Blanca. He says:

"The confidence due him, and the footing I was and ought to be on with the French ambassador [Count Mont-

⁶ *Diplomatic Correspondence*, III:
724.

morin] embarrassed me exceedingly; especially as there is little reason to doubt of their being on confidential terms with each other. I was reduced to the necessity, therefore, of acting with exquisite duplicity,—a conduct which I detest as immoral and disapprove as impolitic,—or of mentioning my difficulties to the count [Montmorin] and obtaining his answer.”

He accordingly went to the French ambassador, Montmorin, told him what he had said to Florida Blanca, and then wrote the latter, frankly telling him what he had done, explaining his reasons, and hoping his conduct would not be disapproved. The experienced Spanish diplomat doubtless smiled complacently as he replied that Jay’s honorable delicacy accorded well with the high idea he had previously formed of his character and that his communications to the French ambassador were quite unobjectionable. Jay was highly pleased by this and wrote:

“Unpracticed in the ways of courts, I rejoice in finding I am to transact the business committed to me with a gentleman who adorns his exalted station with virtues as well as talents and looks down on that system of finesse and chicanery which, however prevalent, wisdom rejects and probity disapproves.”⁷

He was soon to change this estimate. Leaving Carmichael at Aranjuez, Jay returned to Madrid. They soon discovered that their confidential letters to one another were intercepted, opened, and read by agents of the Spanish minister. Carmichael wrote Congress:

“We have sometimes the mortification to hear of the arrival of letters from America in the seaports which, notwithstanding, never reach us. . . . Almost everything that passes, even in Congress, is known here, either by intercepted letters, or otherwise. You gentlemen will conceive how delicate Mr. Jay’s situation must be, if he delivers faithfully his sentiments of men and measures. I must repeat again, however, there is great appearance of candor and good faith. The Count de Florida Blanca and M. Galvez speak with much apparent civility and frankness and seem desirous of doing all that is possible to succor us, consistent with the actual situation of their finances, the former particularly.”⁸

⁷ Id. 725.

⁸ *Diplomatic Correspondence*, III: 736-7.

Carmichael also soon became better informed about the character of Spanish diplomacy. By this time Jay was suffering from lack of funds to meet even his most necessary expenses; while, to add to his troubles, Congress was drawing bills upon him for large sums, hoping he could manage to procure money from Spain to pay them.⁹ The increasing frequency and amounts of these drafts soon drove him almost to despair. He had left America without public funds, but with an order on Doctor Franklin for \$25,000. His destination was France, but his ship proving unseaworthy, he had been compelled to change vessels and land in Spain. "I arrived at Cadiz," he wrote, "without letters of credit, or recommendation to any person there. . . . A passenger with us was so obliging as to procure me credit for about two hundred pounds sterling with a relation of his."¹⁰ The drafts on him from Congress were presented for acceptance. He paid all he could out of his slender purse. Franklin sent him the \$25,000, but this was soon gone. Four months after his arrival in Spain he wrote:

"The credit given me by Congress on Dr. Franklin is expended, and I am without other means of obtaining supplies than by private credit, which I am at a loss to satisfy. To apply to and be maintained by the court is, in my opinion, too humiliating to be for the public good, and as yet I have neither received nor heard of remittances from America."¹¹

But he received and heard much of new drafts on him from Congress, and to protect them was compelled to apply to Florida Blanca, for money or credit from the King. The latter had already made it evident that no loan of five millions, nor any subsidy such as Congress sought, could be hoped for.

Jay's experiences in seeking money aid to his country from Spain makes a sad story of shameless duplicity on one side and distressing humiliation on the other. He was treated as a mendicant—a mere troublesome hanger-on about the court—seeking an audience with the King's great minister, who pretended he

⁹ Hardly had he left America before Congress, in view, it said, of "the embarrassments which the depreciation of the currency had created in the public affairs, . . . ventured on the expedient of draw-

ing bills on [him] for one hundred thousand pounds sterling." (Id. IV:793, Letter of Committee of Foreign Affairs.)

¹⁰ Id. III:707.

¹¹ Id. 732.

was nearly always too much engaged to see him, but would see him, or would at least endeavor to arrange to see him, on some indefinite future day.

After long delay he was given an audience, only to receive deceptive assurances of friendship, and be told the minister would later give him a written statement.¹² A week later it was received. It stated that the King could not furnish money, but, to enable Jay to secure a loan of 100,000 pounds for three years with the King's *guaranty* of payment, "the King will readily agree to such an arrangement, even if it shall be found necessary to add a moderate interest." As the King's financial credit was not rated high, "a moderate interest" was likely to be considerable, and it was very doubtful whether Jay could get anyone to make a three years' loan on the strength of the King's guaranty. How many delays, evasions and mortifications he was to encounter before any actual guaranty could be secured he was in time to learn.

Furthermore, Florida Blanca suggested that the King expected compensation for his guaranty, and it proved to be a very exorbitant one. It was nothing less than that Congress should engage to build without delay four "handsome frigates and other smaller vessels of war, . . ." send to Spain for equipment articles, and "afterwards transport them in their own vessels . . . to America . . . and find hands enough in America to man these new-built vessels, which will sail under Spanish colors!"¹³ These measures, the prime minister complacently said, "appear to be the most proper to reimburse, in some shape, the expenses already incurred by his Catholic Majesty and to answer for such security as has been proposed."

Jay promptly answered this communication by letter to Count Florida Blanca. It was deferential in form, but in substance it said the articles required for the building of such ships could not be procured in America without money; that it was because Congress had no money it was asking a loan from Spain; and that it could not, therefore, in good faith undertake to build such ships.

¹² Id. IV:114.

¹³ *Diplomatic Correspondence*, IV: 115.

Twelve days more of waiting followed, wrote Jay, with "nothing further . . . between the minister and myself except a message or two respecting each other's health." Then on June 19th he received a note pressing payment of a bill for \$333, which he sent to Count Florida Blanca, saying: "From this his excellency will perceive the painful situation Mr. Jay is in. He forbears making any reflections on it."¹⁴ Next day the count replied that he

"will have no difficulty in paying the bill of three hundred and thirty-three dollars mentioned in Mr. Jay's note of yesterday, both on account of its small value and in consequence of what he had to offer him at their last conference; but he cannot forbear observing to Mr. Jay that it will be impossible to show the same complaisance for other bills without consulting the pleasure of the King. The means hitherto proposed, not having been considered as agreeable to Congress, it has become necessary to seek for others; and Mr. Jay will do well to think seriously on this subject and communicate whatever his wisdom and information may suggest to him."

"This," said Jay, "looked dry and indicated a degree of irritation, although it held out the idea of further means." In reply he wrote Florida Blanca, reminding him of his statement, a month previously, that "at the end of the present year he would have it in his power to advance twenty-five, thirty or forty thousand pounds sterling; and, in the meantime, should these bills be presented for payment, he would take such measures as would satisfy the owners of them, viz: by engaging, in the name of his majesty, to pay them."¹⁵ Jay's report to Congress said:

"As this letter was, among other things, designed to establish the expectations and encouragement given me as to the money in the last conference, by obliging him either to deny them against the truth, or admit them, at least by his silence, I desired Mr. Carmichael to deliver it with his own hands, which he accordingly did. It still remains unanswered."

More notes passed, Jay making suggestions touching the count's favorite scheme of getting American frigates at the ex-

¹⁴ Id. 119.

¹⁵ *Diplomatic Correspondence*, III: 723, May 11, 1780.

pense of the United States, and his wily opponent still intimating assistance to him in meeting the bills from Congress. Joyce & Co., a Madrid firm holding over \$10,000 of the bills of Congress, was demanding Jay's acceptance of them and threatening protests; but they were induced to give time for his answer until the following Monday. He wrote informing Florida Blanca of the fact. His acceptances had been made on the faith of the assurance he had received that the King would provide for their payment, and he wished the minister's approval of his acceptance of these new bills, lest the King's responsibility for them should in future be repudiated.¹⁶ The Count made an excuse for delay, telling him to make the holders wait some days longer. In reality neither he nor Vergennes wished to see the financial credit of the United States utterly destroyed, lest it cause the collapse of their war against England. Ten days later Florida Blanca wrote Jay asking when these pressing bills would become payable, thus arousing hope that he would make plans to pay them; but just then, said Jay, "the loss of Charleston became credible. The effect was as visible the next day as that of a hard night's frost on young leaves."

More weeks of waiting and increasing misery followed. Then he secured another audience, but said of it: "not a nail would drive." Florida Blanca said he could do nothing until the arrival, in two or three weeks, of "*a person*" he had sent for and who, it was expected, would be made Spain's agent in Philadelphia.¹⁷ He said he must confer with him; but added that if an immediate acceptance of the bills was insisted on by the holder, Jay might accept them, payable at Bilboa, though it would be better to delay acceptance until the coming of the unnamed "person." The non-appearance of this "person" was to be an excuse for many further delays. The time for his arrival having passed, Jay wrote the minister three several notes about the pressing bills. The first two of his notes were not noticed, but to the third he received for reply that "the count can only say he still waits for the person in question, who has informed him that he was on the point of setting out on his journey."¹⁸

Twelve more days of waiting followed, and then Jay wrote

¹⁶ Id. IV:122.

¹⁷ Id.

¹⁸ Id. IV:122.

Florida Blanca that "since his last note, bills to the amount of six thousand six hundred dollars have been presented to him for acceptance." If he accepted them without the minister's approval, the latter might deny any obligation to see them paid; yet if they were not accepted, the bankruptcy of the United States would be published to the world. Florida Blanca replied "that he still waits for the person of whom mention has been made."

Jay wrote Congress: "Mrs. Jay's illness and the death of a child detaining me in Madrid, I requested the Count to give me notice when . . . to wait upon him," and he sent Carmichael to Ildefonso, where the court and minister had gone. There Carmichael found (Aug. 12th) a man whom he suspected was the mysterious "person" Florida Blanca professed to be waiting for.¹⁹ Four days later, the holders of the bills that Congress had drawn on Jay were becoming more importunate. He wrote again, informing the Count of his plight and reminding him of his previous assurance that his "friendship for America would rise with her distresses;" and in his memoranda for report to Congress adds: "No answer."

Next day he says he received a card from the firm holding most of the bills stating they had "received peremptory orders to return them unless accepted by him, and that they could not delay longer than the next post."²⁰ He sent the card to the minister and made the same memorandum: "No answer."

Later he again wrote Florida Blanca:

"Monday next I perceive is to be the critical day. Other bills . . . are then to be presented. Mr. Gardoqui of Bilboa writes me that he has received bills on me for thirteen thousand three hundred and thirty-five dollars, with orders immediately to ship the amount in goods to America. They will be presented tomorrow and he expects an answer by Monday's post. If an immediate acceptance or refusal should be insisted on by any one of them, a protest must ensue and American credit be reduced to the lowest ebb. What am I to do?"²¹ Again, "no answer."

A week passed, during which Jay "visited the holders of the bills and obtained further time until Monday next," and "on the 24th . . . set out for Ildefonso," where the court and Florida Blanca then were. Next day he sent him a letter saying he had

¹⁹*Diplomatic Correspondence, IV:*
127.

²⁰ Id. 127.

²¹ Id. 128.

"accepted Messrs. Joyce's bills payable at Bilboa, agreeable to your excellency's directions on the 5th of July last, and they have agreed to wait some time for the name of the house there which may be employed to pay them. The other gentlemen were induced to delay requiring of me a decisive answer until Monday next, on my assurance they should then receive one. . . . No answer!"²²

"The next morning I went to pay my respects to the minister, but was told he was sick. The French ambassador, however, and others had been with him in the morning and he rode out as usual in the afternoon."

Worn out and in despair, Jay sought the aid and advice of the French ambassador, Count Montmorin, who had professed special friendliness and the desire to assist him. He explained to him his dealings with Florida Blanca and explained the treatment he had received about the bills. He also told Montmorin that in their first interview the Spanish minister had promised to send him written notes about the proposed treaty between Spain and America, but had never done so. In fact, Florida Blanca probably never intended sending them, but purposely withheld his treaty demands until the increasing necessities of Congress and Jay should render them submissive to such terms as he would impose: namely, a surrender of the Mississippi, and even the whole or a very large part of our western country.

Unsuspected at that time by Jay, the French ambassador was colluding with Florida Blanca in the whole affair. He advised Jay to ask again for an audience with the Spanish minister.

"Mr. Jay replied that he could not hope to have an answer to this request, as he had not been able to procure one to the different applications he had already made. The ambassador said that he would willingly speak to the minister but feared he would not be able to enter fully into the subject until Wednesday, both the minister and himself having their time employed on objects which . . . engrossed much of their attention."²³

"Wednesday," as Montmorin doubtless knew, would be two days after the time when Jay had promised to give the holders of

²²*Diplomatic Correspondence*, IV: 128.

²³Id. IV:129.

the bills his definite acceptance, or let them go to protest. Jay's report to Congress said:

"Finding that the ambassador could not do anything till Wednesday next, and that the minister's determined silence left no room to hope much from him very soon, I despatched letters by express to the holders of the bills and requested a little more time. I was apprehensive that if I should accept them without the minister's consent it might become an objection to his providing for their payment, and appearances led me to suspect that any tolerable excuse for such refusal would have been very grateful.

"The French ambassador did not, as usual, return my visit. I dined with him nevertheless; but his behavior, though polite, was dry, and not cordial and open as before. . . . On Wednesday . . . I waited on the ambassador to know the result of the conversation he had promised to have with the minister on our affairs. He did not appear very glad to see me. . . . He said he had seen the minister, but that as Count d'Estaing was present, he had only some general and cursory conversation with him and, slipping away from that topic, went on to observe that I would do well to write another letter to the minister, mentioning the number of letters I had already written, my arrival here and desire of a conference with him. I told the ambassador that while four letters on the subject remained unanswered it could not be necessary to write a fifth."

The ambassador said much to excuse the inattention of Florida Blanca, and, whilst professedly reassuring Jay, was really discouraging him, saying the United States were "yet only rising States, not firmly established or generally acknowledged," and "that he would by all means advise [Jay] to write the minister another letter *praying* an audience." Jay said:

"I answered that my object in coming to Spain was to make *propositions*, not *supplications*, and that I should forbear troubling the minister with further letters till he should be more disposed to attend to them; . . . that I intended to abide patiently the fate of the bills, . . . and should then write the minister another letter on the subject of the *treaty*; and, if that should be treated with like neglect, . . . I should consider my business at an end and proceed to take . . . measures for returning to America."²⁴

²⁴*Diplomatic Correspondence*, IV:

Still solicitous for the financial credit of his bleeding country, Jay swallowed his pride and next day (August 31) so far complied with Montmorin's suggestion as to send Carmichael to ask a conference. Carmichael, said Jay,

"after being long detained in the ante chamber, . . . received for answer that the minister could not possibly see me till the next Tuesday evening [Sept. 5] and that Mr. Carmichael should call again on Tuesday morning to be informed whether it would be in his power to see me *then*; that the person so long expected was arrived, that he had been preparing instructions for him, and would endeavor in the meantime to send him to converse with me.

"On Sunday the 3rd of September Don Diego Gardoqui of Bilboa presented me a note . . . in these words: 'Count de Florida presents his compliments to Mr. Jay and recommends to him to form an acquaintance with the bearer of this letter, being the person in question whom he had expected from day to day.'

"It is observable that Mr. Gardoqui's name is not mentioned in this letter, which appears the more singular as the count had never mentioned to me the *name* of the person expected. This was being very wary."

Nearly a month before, Gardoqui had been seen by Carmichael at the house and walking in the gardens of Florida Blanca's confidential secretary, Del Campo, at Ildefonso, where the prime minister then was; and Jay adds: "Here it appears that these strange delays were not unavoidable." He rightly suspected they were due to "an expectation that our distresses would render us more pliant and less attached to the Mississippi." Jay was at last awakened to the real secret of the devious diplomacy of the wily minister of Spain, and was becoming suspicious of Montmorin; but he seems not to have suspected the treacherous part being played in the whole affair by Montmorin's chief, Vergennes.

In truth, the bills held by the house of Gardoqui at Bilboa, and possibly those held by Joyce & Co., had probably been bought for the Spanish King, and the demands upon Jay for acceptance of them pressed or delayed as directed by the wily Spanish prime minister. While Jay was trembling lest the credit of his country be ruined by the protesting of its bills, Florida Blanca, not unconcerned in supporting its credit, was doubtless amusing himself over Jay's torture, well knowing there could be no protest unless he should himself order it.

Notwithstanding his delay about discussing a boundary and navigation treaty with America, Florida Blanca was no less anxious for one than Jay. His whole diplomacy of delay about money bills was in preparation for it, and Jay's threat to give up and go home made active negotiation imperative. Florida Blanca evidently thought, however, that Jay would be less hopeful and more pliant if still denied an audience with him, but left to negotiate with his subordinates, Gardoqui and Del Campo; and accordingly Jay was referred to them.

He first met Gardoqui, who discussed the bills and after much fencing, said Jay,

"remarked that we offered no *consideration* for the money we solicited. I replied that we offered the same consideration that other nations did who borrowed money, viz. the re-payment of the principal with interest. He asked me if we had nothing further to offer, and mentioned ship timber. [Jay answered this fully as he had done with Florida Blanca.] He again asked me whether I could think of nothing else to offer. I told him no. Whether there was nothing on the east side of the Mississippi that I could offer. I told him . . . nothing except land and that I did not think it would be worth the King's while to buy a hundred thousand pounds' worth of land there, considering the immense territories he already possessed."

He and Gardoqui arranged to meet at Del Campo's house the next day. Before that, however, said Jay,

"In the evening M. Gardoqui again paid me a visit and pointedly proposed my offering the navigation of the Mississippi as a consideration for aids. I told him the object could not come in question in a treaty for a loan of one hundred thousand pounds. . . . that the Americans, almost to a man, believed that God Almighty had made that river a highway for the people of the upper country to go to the sea by; that this country was extensive and fertile; that the general, many officers and others of distinction and influence in America, were deeply interested in it; that it would rapidly settle, and that the inhabitants would not readily be convinced of the justice of being obliged either to live without foreign commodities, or lose the surplus of their productions, or to be obliged to transport both over rugged mountains and through an immense wilderness to and from the sea, when they daily saw a fine river flowing before their doors and

offering to save them all the trouble and expense, and that without injury to Spain."²⁵

Next day they met at Del Campo's home. To him Jay said it would be needless to explain about the bills,

"as all the papers between the minister and myself had passed through his hands. He replied, making several strictures on the impropriety of drawing bills without previous notice and consent, . . . that Spain had been brought into the war by our quarrel, but received no advantage from us; that . . . he had heard of nothing but demands from us. . . . He said . . . America did not seem inclined to gratify Spain in the only point in which she was deeply interested. Here followed much commonplace reasoning about the navigation of the Mississippi," etc.²⁶

Two days later Gardoqui called to inform Jay that he was permitted to accept certain bills amounting to a little over a thousand dollars. This visit was followed by one from Del Campo, who expressed regret for the delays Jay was meeting with, and fenced with him regarding the western country and navigation, but got little satisfaction. Thereupon Florida Blanca proceeded "to tighten the screws" by sending Gardoqui with a verbal message to Jay "That the exigencies of the state would not permit his majesty to provide for the payment of more bills drawn upon me than had been already accepted." Jay said:

"I expressed my regret that this had not been told me at first, and told him it appeared a little extraordinary that the minister should employ himself and me three months in making and answering propositions relative to a loan which it was not in his power to make . . .

"As the . . . message to me . . . was a verbal one and might hereafter be denied or explained away as convenience might dictate," Jay wrote the Count a letter repeating the message and saying "I must request the favor of your excellency to tell me frankly whether the United States may expect any and what aids from Spain."²⁷

September 14th Jay said:

"On this day some glorious reports from America arrived. It seemed as if she had risen like a giant, refreshed with sleep and was doing wonders. I sent the news to the Count as

²⁵*Diplomatic Correspondence*, IV: 135.

²⁶ Id. 135-7.

²⁷ Id. 138.

usual, without appearing to be affected by his late conduct. I began again to be seen and in a few instances to be known."

The next day Gardoqui delivered an *unsigned* paper, as being dictated by Florida Blanca, saying:

"It is not his majesty's intention to stop assisting the States whenever means can be found to do it . . . that consequently if Mr. Jay, or his constituents, should find money upon credit to the sum of one hundred or one hundred and fifty thousand dollars, that his majesty will be answerable for the said sum, payable in . . . three years and that his majesty will besides exert all that is possible to assist them with clothing and other things."

Then followed this vague but significant statement:

"In order that his majesty may extend his further dispositions, it is precisely necessary that they [the states] should give sure and effective tokens of a good correspondence, proposing reciprocal measures of compensation that may establish a solid friendship and confidence without reducing it to words and protests of mere compliment. . . . I would further suggest to Mr. Jay's consideration that the continuance of assisting the States . . . shows plainly the sincerity of his Majesty, although the States have not to this day proposed any equivalent to the assistance already given, and to the expenses occasioned by a war which had its true origin from them, to all which must be added (though, by the way, no credit is given to it) that there are hints of some understanding between the Colonies and England."

Jay said further:

"It is observed that this paper . . . was not signed, and suspecting that this omission was not accidental, I mentioned it to M. Gardoqui a day or two afterwards. After some hesitation, and doubts of its being necessary, he signed it. I made no remarks to M. Gardoqui on any part of this paper except the last article, which I treated with great indignation."²⁸

At length Jay was admitted to an audience with the prime minister, on September 23, 1780. After the usual insincere professions and a discussion of the bills and loans,

"the count proceeded to say that it would not conduce to the general pacification to hurry on the treaty; that finding

²⁸ Id. 138.

Congress were not disposed to cessions, without which the King could not make a treaty, he thought it best, by mutual services and acts of friendship, to continue making way for more condescensions on both sides, and not excite animosities and warmth by discussing points which the King would never yield. That therefore Mr. Jay might take time to write to Congress on the subject and obtain their instructions. . . .

"The count . . . said . . . that, unless Spain could exclude all nations from the Gulf of Mexico, they might as well admit all; that the King would never relinquish it; that the minister regarded it as the principal object to be obtained by the war; and, *that obtained*, he should be perfectly easy whether or no Spain procured any other cession; *that he considered it far more important than the acquisition of Gibraltar.*"²⁹

Here at last the real motive of Spain in entering the war was laid bare. It was not to aid America, as he and his subordinates had claimed; it was not to win Gibraltar, which England was unlikely to yield; but it was to gain control of the Mississippi and its great valley and to make the Gulf of Mexico a Spanish sea. The treaty of alliance with France had bound that country to continue the war until Gibraltar should be surrendered to Spain. The relations and interests of the two Kingdoms were such that France could not afford to make Spain an enemy by refusing to fight on for Gibraltar. Yet, if only England could be crippled and humiliated by securing the independence of her American colonies, the object of France would be accomplished. She too was being exhausted by the war and needed peace; but to secure it she must first win Gibraltar for Spain, or in lieu of it, what Spain coveted more, the control of the Mississippi and its great valley. If the United States could be compelled to surrender that, Spain could be satisfied. Hence the collusion of French and Spanish diplomats to secure it for Spain.

While Jay was making his desperate fight with them to save the navigation and western country, he received from Gouverneur Morris a letter urging him to give it up, saying:

"We stand in need of assistance and you must procure it. I am very sensible that Spain, under her present circum-

²⁹*Diplomatic Correspondence*, IV:
145-6. Author's italics.

stances, cannot advance money at Madrid. She wants there the power, and everywhere the will.

"The difference between us appears to be absurd in every point of view, at least on our part. Two persons contend together about the property and possessions of a third. This, under any civil or municipal law, would be absurd: surely it is absurd under the law of nations, unless there be a clause in that law which declares that red men are not entitled to the same rights as white men.

"We ask a territory and a navigation. The territory we cannot occupy, the navigation we cannot enjoy. We cannot occupy the territory at present or in future; at present because we have not the men; in future because we cannot govern it. The most we can expect is that an emigration from the whole world, whereof one hundredth, or perhaps not so much, shall be our descendants, will claim title under us to a part of the soil and then set up independence.

"It is impossible to monopolize theorems and corollaries. The principles which caused and which justify the present revolution will cause and justify as many more as time and circumstances may furnish occasion for. The question then resolves itself into this: shall we be bounded by a wilderness or a rival nation? Reason says the former and bids us pursue the path which leads to it. The blind avarice of dominion may propel us into another road, but it leads to ruin!

"As to navigation of the Mississippi, everybody knows that the rapidity of the current will forever prevent ships from sailing up, however easily they may float down. Now, unless some new dragon shall be found whose teeth, sown on the banks of the Ohio, will produce seamen, I know not where else they will be obtained to navigate ships abroad which can never return home.

"But if the navigation were as easy and advantageous as it is useless and impracticable, its effect would be only the sooner to dissolve all commercial connection between us and the sooner to produce every unhappy consequence of it."³⁰

From Doctor Franklin, Jay received very different advice. Replying to a letter from Jay regarding the demand of the Spaniards for an exclusive right to the navigation of the Mississippi, Franklin said:

"Poor as we are, yet as I know we shall be rich, I would rather agree with them to buy at a great price the whole of

³⁰ Spark's *Life of Gouverneur Morris*, p. 225.

their right on the Mississippi than sell a drop of its waters. A neighbor might as well ask me to sell my street door."³¹

For many more weary months, Jay continued in Spain, contending in vain with his financial embarrassments and with Spanish and French duplicity; but the main diplomatic struggle with these powers was about this time transferred to Philadelphia.

³¹*Diplomatic Correspondence*, IV:
75.

CHAPTER XVI

FRENCH DIPLOMACY IN AMERICA

Gerard's successor, Chevalier Luzerne, was introduced to Congress in November, 1779.¹ His task, also, was to persuade or force that body to rescind its boundary *ultimatum*, and consent to a treaty such as the King of France, or rather his astute minister, Vergennes, would make for us. This must have seemed almost impossible, for Congress had shown no weakening in its claim of boundaries extending to the Mississippi.

Luzerne resorted to new tactics. He alarmed Congress with news that Russia, Germany, and other neutral powers injured by the war, were about to mediate between the belligerents and force them to accept a peace on the principle of the *uti possidetis*, whereby each belligerent would retain all territory in its possession. He wrote Congress:

"Should the enemy be in possession of any part of the United States at the close of the next campaign, . . . an impartial mediator could not easily refute the arguments which might be used for its retaining such possessions. And probably a mediator, well disposed towards Great Britain, might insist on her holding them, and if not agreed to, the hostility of such a mediator would be the necessary consequence."²

The British then held New York, the entrances to Delaware and Chesapeake Bays, Charleston, Savannah, and large parts of the Carolinas and Georgia. Luzerne urged great and immediate efforts on the part of the Americans to expel them; well knowing that such efforts would serve Vergennes' purpose of exhausting the states and compelling them to surrender the western country to Spain. Congress promised to furnish an army of 25,000 men to coöperate with the forces France would send over; but was utterly unable to do so. It sent, however, a circular letter to the executives of the thirteen states, informing them of the impend-

¹ *Journals of Congress* (old), V: 313, November 17, 1779.

² Hunt's *Introduction* to Vol. XVI, *Journal Continental Congress*, 108.

ing negotiations for peace and urging them to more vigorous efforts to drive "the enemy from their present possessions in every part of these states, or at all events to confine them to the seacoasts, in order to give as little room as possible to the enemy's claim of *uti possidetis*; which will undoubtedly be most strenuously insisted on by them in the course of the negotiation."³

With Congress thus duly alarmed, Luzerne next stressed the imperative need for its cordial coöperation with Spain. What he meant (and what his aims meant for Kentucky and the western country at large) appears plainly from the report (Feb. 2, 1780) of a committee appointed to confer with him, which quoted him as saying the King of France "wishes most earnestly" for an alliance between Spain and the United States; and, "in order to make the way thereto more easy," communicates to Congress:

"Certain articles which his Catholic Majesty deems of great importance to the interests of his crown, and on which it is highly necessary that the United States explain themselves with precision and with as much moderation as may consist with their essential rights. That the articles are—

"(1) A precise and invariable western boundary to the United States.

"(2) The exclusive navigation of the river Mississippi.

"(3) The possession of the Floridas, and

"(4) The lands on the left or eastern side of the river Mississippi.

"That on the first article it is the idea of the cabinet of Madrid that the United States extend to the westward no farther than the settlements were permitted by the royal proclamation. . . . [in other words, the crest line of the Alleghenies!]

"On the second, that the United States do not consider themselves as having any right to navigate the river Mississippi, no territory belonging to them being situated thereon.

"On the third, that it is probable that the King of Spain will conquer the Floridas during the course of the present war; and in such event every cause of dispute relative there-

³ The following clause was in the letter, but, evidently from politic motives, was erased: "Thus we are likely to have obtruded upon us, by the intervention of two such formidable powers, the hard necessity of acceding to those overtures at a

time when these states are in less eligible situation to enter into negotiations for peace, than at any other period of the war." *Journal Continental Congress*, XX:586, June 1, 1781.

to between Spain and these United States ought to be removed.

"On the fourth that the lands lying on the east side of the Mississippi, whereon the settlements were prohibited by the aforesaid proclamation [that is, all west of the Alleghenies] are possessions of the crown of Great Britain, [Luzerne well knew that large parts of them were in Virginia's possession and recognized no other government than hers] and proper objects against which the arms of Spain may be employed for the purpose of making a permanent conquest for the Spanish crown. That such conquest may probably be made during the present war; that therefore it would be advisable to restrain the southern States from making any settlements or conquests in those territories; that the Council of Madrid consider the United States as having no claims to those territories. . . .

"That his most Christian majesty, united to the Catholic King by blood and by the strictest alliances, and united with these states in treaties of alliance, and feeling towards them dispositions of the most perfect friendship, is exceedingly desirous of conciliating between his Catholic Majesty and these United States the most happy and lasting friendship.

"That the United States may repose the utmost confidence in his good will to their interests, and in the justice and liberality of his Catholic majesty, and that he cannot deem the revolution which has set up the independence of these United States as past all danger of unfavorable events until his Catholic Majesty and the United States shall be established on those terms of confidence and amity which are the objects of his Most Christian Majesty's very earnest desire."⁴

There was no mistaking the meaning of this communication, or its covert threat if Luzerne's suggestion should be disregarded. All knew that whether our independence should be won or lost depended on France, and we were warned of its loss unless Congress complied with Spain's demand and thus gained her alliance.⁵

⁴ *Diplomatic Correspondence*, III: 488.

⁵ Francis Wharton, the able legal writer and author of the *Diplomatic Correspondence of the Revolution*, makes a labored effort to relieve Vergennes of the charge of duplicity, but, it must be said, signally fails. His own quotations from

that minister's deceitfulness. (Op. cit. I:357 et seq.) Wharton was a great-nephew of Samuel Wharton, the Indiana grant promoter, but a far higher type of man. Doniol, in his *Histoire de la Participation de la France à L'établissement de L'Etats Unis*, evidently aimed to present facts showing France and Vergennes as friends of America.

Congress, however, stood firmly by its *ultimatum*. This was the more remarkable because, as Hunt, in his introduction to its journal of that year, says:

"In the year 1780 the difficulties which beset the Continental Congress were almost overwhelming. On January 10 the Board of War reported that, in spite of the necessities of the troops, no clothing could be bought, because there was no money to pay for it; on March 10 the Board of Treasury said that the commissary general of issues had announced that there was not bread enough on hand to feed the army for ten days longer; on April 4, a committee reported: 'There is no money in the treasury and scarce any provisions in the public magazines.' . . . On June 21, Congress was obliged to inform the states that they had failed to furnish any of the 25,000 men who, it had promised the King of France, would be in the field to coöperate with the forces which he was sending over. On August 3, came a representation from the general officers, in their own and the soldiers' behalf that they were not paid, and that no attention was given to their demands. On May 12 Charleston fell; on August 16, news was received of Gate's defeat at Camden; on September 30, despatches arrived announcing Arnold's treason."⁶

Nevertheless Congress unanimously instructed Jay (Oct. 4, 1780): "to adhere strictly to the boundaries of the United States as already fixed by Congress," and declared:

"Spain, having by the treaty of Paris ceded to Great Britain all the country northeastward of the Mississippi, the people inhabiting these states, while connected with Great Britain and also since the Revolution, have settled themselves at divers places to the westward near the Mississippi, are friendly to the Revolution and, being citizens of these United States and subject to the laws of those to which they respectively belong, Congress cannot assign them over as subjects to any other power."

Congress went further. It directed Jay not only to assert our right to the free navigation of the Mississippi, but to ask a free port on the river in Spanish territory.⁷ Nor had it ever weakened in its demand that, as an essential condition of peace, Great Britain must evacuate every part of the United States.

⁶ *Journal Continental Congress*, XVI:5.

⁷ *Diplomatic Correspondence*, IV: 79.

But Vergennes and Luzerne knew the difficulties and desperation of Congress. There was still no confederation, for, despite all appeals, Maryland still refused to join the Union unless given a share of the charter lands of the four southern colonies. The time was propitious therefore for the minister of our "great and good ally" to apply the thumb-screws to his impecunious and dependent protégé. Accordingly, Luzerne let Congress understand that, although his King desired to do everything possible to protect the interests of the states, our difference with Spain about the western country and navigation seemed to make it necessary for France to conclude a treaty without our concurrence, if such concurrence were refused. Playing on the desperate money-needs of Congress, he would at one time dwell upon his King's own financial embarrassments and arouse fear lest he deny any further aids, and at another hold out hope of still greater generosity than he had yet shown. The first result of his policy was that Congress (February 15, 1781) actually passed a resolution, proposed by Virginia, directing Jay to give up all claim to the free navigation of the Mississippi if Spain would become our ally.⁸

This was doubtless very gratifying to Luzerne, for with conceded control of the lower Mississippi, Spain could prevent American development of the great country east of the river and perhaps eventually detach it from the United States. Florida Blanca, however, wanted also the western country for Spain. When he learned that Congress would give up the navigation—although that was all he had been ostensibly claiming in his talks with Jay—instead of showing pleasure and a desire to enter into

⁸ Although Virginia was the state mainly interested in maintaining our Mississippi boundary and navigation right, her Assembly had passed an act stating that "to promote the general object of the Union and to remove . . . every reasonable obstacle to the speedy conclusion of an alliance" with Spain, Virginia withdrew former instructions to her delegates to claim "the navigation of the River Mississippi, except such part thereof as forms their Western boundary," and directed them to

propose a resolution in Congress directing Mr. Jay to *recede* from his former instructions to claim the right of navigating the river below the Georgia-Florida line, being latitude 31°, provided he found this necessary in order to effect the alliance with Spain. Congress promptly passed the resolution (February 15, 1781) and sent Jay the new instructions. (*Journal Continental Congress*, XIX:151-4; *Diplomatic Correspondence*, IV:257.)

a treaty with him, he treated Jay with increased coldness and added even more to his money embarrassments.

Luzerne soon became the dictator of America's foreign affairs. March 24th he told Congress that

"while making the necessary arrangements for the ensuing campaign, . . . they should know, for certain, that they are to count only on their own resources for defraying the expenses that it will require. . . . As to pecuniary aids, the enormous expenses of the present war and the necessity of preserving credit . . . do not permit his majesty's ministers to give Congress the least hope in that respect."

The dismay of Congress may be imagined. In direst need, its last hope of succor seemed gone. Washington wrote:

"We are without money and have been so for a great length of time; without provisions and forage, except what is taken by impress; without clothing and shortly shall be (in a manner) without men. In a word we have lived upon expedients till we can live no longer."⁹ "The efforts we have been compelled to make for carrying on the war have exceeded the natural abilities of this country, and by degrees brought it to a crisis, which render immediate and efficacious succors from abroad indispensable to its safety."¹⁰

New cause for fear was given Congress when (May 25) Luzerne informed it:

"The division of troops under Count de Rochambeau and the French squadron, designed for the defense of the thirteen States, can no longer be expected during the course of this campaign."

Keen disappointment followed, but was somewhat relieved, and that kind of gratitude which has been defined as "a keen sense of favors hoped for" was awakened, by Luzerne's saying that, notwithstanding his King could not aid the Americans with fleet and troops, as he had led them to expect, he had resolved to give them new proofs of his friendship by granting them a new subsidy of six million livres.¹¹

The hopes aroused by this announcement were soon dashed by another. The diplomatic game of Vergennes was fast nearing

⁹ *Letters and Addresses of Washington*, p. 221, Oct. 22, 1780.

¹⁰ *Id.*, p. 222, Jan. 15, 1781.

¹¹ *Diplomatic Correspondence*, IV: 434.

its climax. Luzerne informed Congress he had received orders to communicate to it some important information about overtures for peace; that Great Britain desired it; that Russia had offered to mediate between the belligerent powers; that the King of France, "actuated by his affection for the United States returned for answer, that it was not in his power to accept the offers made to him and that the consent of his allies was necessary; that the King wishes to have this consent before he formally accepts the proposed mediation; but it is possible that circumstances . . . may determine him to enter upon a negotiation before the answer of Congress can reach him"¹²

Here Congress was given to understand that the exhausted states might any day find themselves left without an ally, to contend against the whole power of Britain! Furthermore, Luzerne repeated, with increasing emphasis, his warning of the danger of the *uti possidetis* being made the basis of negotiations.

No American of that day thought for a moment that the western country was comparable in value to the possessions held by the British along the Atlantic; yet, under the *uti possidetis*, if we were allowed to retain that western country, Great Britain could as well claim to retain her still more valuable seaboard conquests. Mr. Madison wrote:

"The delegates from Georgia and South Carolina, apprehensive that a *uti possidetis* may be obtruded on the belligerent powers by the armed neutrality in Europe, and, hoping that the accession of Spain to the alliance will give greater concert and success to the military operations that may be pursued for the recovery of their states, and likewise add weight to the means that may be used to obviate a *uti possidetis*, have moved for a reconsideration of the instructions, in order to empower Mr. Jay, in case of necessity, to yield to the claims of Spain in consideration of her guaranteeing our independence and affording us a handsome subsidy."¹³

Luzerne, apprehending that if peace terms were debated in Congress behind closed doors, refractory members might thwart his scheme, asked Congress to appoint a committee to confer with him; and it did so. He also wished to have it appoint someone else than John Adams as its peace envoy. Able, honest and

¹² *Diplomatic Correspondence*, IV: 440.

¹³ *Id.* IV:628, citing *Madison Papers*, I:65; *Id.*, appendix xix-xxii.

patriotic, but opinionated and provincial; Adams was offensive to the French minister and also very difficult to influence; and Vergennes wished to have nothing further to do with him. Doctor Franklin had reported this, and Luzerne complained of Adams' conduct, and shrewdly used it to make way for an amazing demand upon Congress. The committee reported him as saying:

"Congress should draw a line of conduct to that minister, of which he might not be allowed to lose sight. . . . The minister concluded on this subject that if Congress put any confidence in the King's friendship and . . . his firm resolution constantly to support the cause of the United States, they would be impressed with the necessity of prescribing to their plenipotentiary a perfect and open confidence in the King's ministers and a thorough reliance on the King and would direct him to take no step without the approbation of his majesty and, after giving him, in his instructions, the principal and most important outline for his conduct, they would order him, with respect to the manner of carrying them into execution, to *receive his directions from the Count de Vergennes*, or from the person who might be charged with the negotiations in the name of the King."¹⁴

Could Congress comply with this insulting demand? Its significance, we may be sure, was plain to many of the members, who knew that any treaty Vergennes would make would confine the United States to the narrow strip of country between the Alleghenies and Atlantic; would bankrupt them; and would give rise to a growing and threatening foreign power back of them. They knew it meant the surrender to Spain of western lands belonging to numberless Americans, east and west, who looked to them as their only hope of restored fortune; that it meant the abandonment of thousands of fellow citizens who had made their homes and invested their all in Kentucky and elsewhere west of the Alleghenies; and that it meant the seaboard American states would be henceforth helpless dependents on France and forever the prey of heartless foreign diplomacy.

Such independence, and at such a price, seemed hardly worth America's six years of war-sacrifice; but it was feared that a refusal by Congress to comply with Luzerne's demand would involve not only the loss of the West, but of New York and other

¹⁴ Id. 20. Author's italics.

seaboard districts in possession of the British; for Luzerne plainly intimated that France might make a separate peace to suit itself.

The result was the most humiliating surrender in the history of the United States. Upon the recommendation of the committee appointed to confer with Luzerne, Congress adopted a resolution instructing its peace envoys:

“to make the most candid and confidential communications upon all subjects to the ministers of our generous ally the King of France; to undertake nothing in the negotiations for peace without their knowledge and concurrence . . . and ultimately to govern yourselves by their advice and opinion, endeavoring in your whole conduct to make them sensible how much we rely upon His Majesty’s influence for effectual support in everything that may be necessary to the present security and future prosperity of the United States of America.”

No more abject submission could have been made by slave to master. Its final outcome will be seen later in the peace negotiations at Paris ending the Revolutionary war.

CHAPTER XVII

RIVAL STATE CLAIMS TO WEST

Clark's victory over Hamilton, besides opening the way for the great immigration to Kentucky in 1779-80, had another result hardly less important to Kentucky and the United States. It revived surprisingly the desire of the states north of Virginia for shares of her western charter territory, and the struggle for it in Congress became more determined than ever before.

It will be recalled that both Franklin's and Dickinson's drafts of Articles of Confederation, giving Congress power to determine boundary disputes between the states and to confirm the Indiana and Vandalia grants, were rejected. Thereupon, a committee from all the states was appointed to draft a new set of articles. It reported articles (August 20, 1776) which gave Congress no power whatever to alter boundaries or restrict any state's rights, but in case of dispute, only made it a *court* to decide, as a matter of law and evidence, what those boundaries *already were*.¹

A long controversy ensued over the committee's new set of articles, and meantime, without any confederation, Congress was endeavoring to carry on the war by mere acquiescence of the states. The imperative need for confederation, however, was growing more and more painfully evident, and on April 8th, 1777, Congress resolved to give two days each week to discussing the report, article by article, until all should have been considered. Months of debate followed, and then (October 15, 1777) amendments were called for. The first three, offered by Maryland, were all framed to give Congress power to limit the western boundaries of Virginia, or any other state claiming territory west of the Alleghenies, and to appropriate the lands beyond those boundaries as the common property of all the states. All were rejected.

The committee's article making Congress a court to judge

¹ *Journal of Continental Congress* (Ford), V:679-80.

boundary disputes between states did not satisfy the Virginia delegates, for they feared their state's title to her western charter territory might not be fairly judged by delegates from twelve other states, every one of which would reap enormous benefit from a decision against her. Therefore the Virginians offered a substitute providing instead that boundary disputes should be decided by a court composed of a few judges chosen by lot and sworn to render justice; and this substitute was adopted. Furthermore, this important clause was added: "*that no state shall be deprived of territory for the benefit of the United States.*"

With this amendment, the Articles of Confederation were adopted by Congress (November 15, 1777) and referred to the states for ratification. The victory of Virginia seemed complete. By Franklin's draft of articles, by Dickinson's, and by that of the general committee, her claims had been left to the decision of a majority in Congress. Now it was contestible only in a court composed of judges selected by lot, with every safeguard against bias, and sworn to render impartial justice, "without favor, affection, or hope of reward."²

Up to this time Virginia's charter claim was the only one specially urged or attacked, claims of the states south of her being grouped with hers. The journals of Congress up to this time show no assertion or contest of any such claims for Massachusetts, Connecticut, or New York. Indeed, when Congress adopted the Articles of Confederation, the whole trans-Allegheny region (except only the little settlements on the headwaters of the Ohio and in Kentucky) was in the undisputed possession of the British; and there was then little prospect of wresting it from them. The plan to reduce Detroit had been abandoned; and, during the ensuing winter of 1777-8—the winter of suffering at Valley Forge—

² The substitute provided that in case a boundary dispute between two or more states could not be settled by agreement between them, then, after notice from Congress, they should be directed to appoint arbitrators, to determine the dispute; that if they failed to do this, then Congress should name three from each of the states, thirty-nine in all; that from the list each dis-

putant should alternately strike one name, until only thirteen remained; that from these thirteen a small number of judges should be drawn *by lot*, to make the court; and that each judge, before acting, was to be sworn to "hear and determine the matter in question according to the best of his judgment without favour, affection, or hope of reward." (*Journal of Congress*, III:459.)

the states were too fully occupied defending themselves in the East to attempt winning of the western country. The only controversy left, which seemed at all substantial, was between the land companies and Virginia over West Virginia and Kentucky.³

The thirteen states having been given ample time to decide whether they would ratify the Articles, on June 23, 1778, Congress called upon their delegates to report their decisions. Next day Maryland moved to amend the article which provided that no state "shall be deprived of territory for the benefit of the United States," by inserting the words:

"The United States in Congress Assembled, shall have the power to appoint commissioners who shall be fully authorized and empowered to ascertain and restrict the boundaries of such of the confederated states which claim to extend to the river Mississippi, or South Sea."⁴

This resolution was voted down. Massachusetts and New Hampshire then reported their ratification of the confederation articles. When Rhode Island was called, it moved the following amendment:

"Provided nevertheless that all lands within these states, the property of which, before the present war, was vested in the crown of Great Britain, or out of which revenues from quit rents arise, payable to the said crown, shall be deemed, taken and considered as the property of these United States and be disposed of and appropriated by Congress for the benefit of the whole Confederacy, reserving however to the states within whose limits such crown lands may be, the entire and complete jurisdiction thereof."

Had this amendment been adopted, it would plainly have caused interminable title disputes between Congress and the people of those states in which "crown lands" might be claimed to lie; but this amendment also was defeated. New York then reported its ratification of the Articles, but unfortunately with "a proviso that the same shall not be binding on the State until all the other states in the union ratify the same." This proviso

³ Even had the attenuated charter claims of Massachusetts and Connecticut to long, narrow strips of territory west of them been legally far stronger than they were, neither

of those states would probably have regarded the assertion of them, at this time, as worth much effort.

⁴ *Journal of Continental Congress* (Ford), XI:631.

was to postpone the final adoption of the Articles of Confederation until Maryland would ratify them, which was not to be until 1781—six years after the Revolution began.⁵

New Jersey also moved an amendment of the articles concerning boundary disputes; but it was defeated. All amendments affecting western land claims having thus been voted down, a form of ratification of the Articles of Confederation was ordered to be prepared and sent to the states for execution. All of them ratified promptly save Maryland, Delaware, New Jersey and Georgia. To them Congress sent a circular letter saying it "has never ceased to consider the Confederacy as the great principle of union which can alone establish the liberty of America," and requesting each "to conclude the glorious compact which, by uniting the wealth, strength and councils of the whole, may bid defiance to external violence and internal dissensions, whilst it secures the public credit both at home and abroad. Congress is willing to hope that the patriotism and good sense of your state will be influenced by motives so important."⁶

Following this appeal, New Jersey and Georgia ratified the Articles, and finally, on February 22, 1779 (the very day when, unknown to Congress, Clark and his gallant men were entering the deep waters of the Great Wabash to take Vincennes), Delaware ratified. This left Maryland alone, of all the states, still refusing to join the Union, unless she and the states north of her should receive full shares of the great western country claimed by Virginia and other southern states under their charters.⁷

⁵ Id. 639.

⁶ Id. 679-81.

⁷ In a monograph entitled *Maryland's Influence in Founding a Commonwealth*, Prof. Herbert B. Adams has greatly extolled this third Maryland amendment, which read as follows: "That the United States in Congress assembled shall have the sole and exclusive right and power to ascertain and fix the western boundary of such states as claim to the Mississippi, or South Sea, and lay out the land beyond the boundary so ascertained into separate and independent states, from time to time, as the numbers and circum-

stances of the people thereof may require."

Professor Adams maintained that this amendment contained a great "pioneer thought" and a new "idea of political expansion under the sovereign control of Congress." He claimed it was the original "suggestion of a firm and lasting Union upon the basis of a territorial commonwealth." (*Maryland Historical Society Fund Publications*, No. 11.)

In truth his whole argument—both premise and conclusion—seems inconsistent with the indisputable records. The fixing of the western bounds of the claimant states by

Two more years were to elapse before Maryland would ratify the Articles, and in the meantime there was no real union of the jealous and jarring states. The United States was only a mere loose league of so many independent sovereignties, functioning only by their acquiescence—as John Randolph said, “a government by supplication.” Plainly Congress had no scintilla of claim to the western region, nor any lawful power to meddle with, or restrict, the western charter bounds of Virginia or any other state.

Notwithstanding all this, the Indiana-Vandalia promoters made great efforts to get Congress to appropriate the trans-Allegheny region and confirm their fraudulent claims. To that end, the Indiana Company by its ever-active agent, George Morgan, in 1779 presented a very disingenuous memorial to Congress asserting its right and contesting Virginia’s claim to Indiana.⁸ The Virginia delegates protested against the reception of this memorial and denied the jurisdiction of Congress to determine their state’s territorial limits.⁹ Congress, however, referred the memorial to a committee made up of delegates who were known to favor confining Virginia east of the Alleghenies.¹⁰ Her Assembly promptly denounced this action and sent Congress a memorial, written by George Mason, vigorously protesting that

Congress, and its assumption of jurisdiction over the lands beyond those boundaries for the common benefit of all the states (which necessarily involved “political expansion under the sovereign control of Congress”) were repeatedly, fully, and even warmly debated in Congress over a year before, as we have already seen. Indeed, they were implied even in the earlier proposals of Franklin in 1775, and Dickinson in 1776. (Cf. Winsor’s *Western Movement*, 150.) Probably neither Franklin nor Dickinson, nor anyone else, ever contemplated that Congress should hold the western country permanently as a joint domain of all the states, or anything

else than that it should be developed and divided into new states.

Adams’ claim is thus freely stated because so many later writers have accepted and repeated it, evidently without investigation. The truth is he seems to have made no thorough investigation of the subject himself, but to have been carried away by his enthusiasm over his supposed discovery of the great “pioneer thought.”

⁸ *Journal of Congress* (old), 267.

⁹ Id. 268, 287; *Journal of Continental Congress*, XV:1155.

¹⁰ From Maryland, New Hampshire, New Jersey and Pennsylvania. *Journal of Congress* (old), V:286.

Congress had no right to meddle with her boundaries.¹¹ Her contention was so plainly impregnable that Congress dared not, at this time, go further than to appoint committees and receive reports from them concerning the western claims. But the shrewd promoters were not to be balked.

To arm Congress with at least a pretended claim to Virginia's western charter lands, they and their confederates managed by audacious trickery to invent and set up for New York a pretended claim to the whole trans-Allegheny region, and have that state *seem* to transfer it to Congress. The method by which they did this will now be explained.

A vaguely worded bill, which was "railroaded" through the New York Legislature, was so framed as apparently to authorize her delegates in Congress to fix her western limits and cede to Congress an undefined region west of those limits. In reality the delegates were not authorized to cede a foot of land that New York ever owned. On the contrary, the Legislature gave them explicit directions, *carefully describing the state's bounds and expressly forbidding them to cede any lands within those bounds*. Those *instructions* the delegates did not see fit to disclose to Congress. Instead, they exhibited only a certified copy of the legislative *act*, and then delivered a deed so drawn as to *appear* to convey an unlimited western territory, but really conveying nothing! Thereupon it was brazenly asserted that Kentucky and the whole vast trans-Allegheny region belonged to Congress and was subject to its disposition! In truth; both the claim set up for New York, and the pretended cession, were merely a political trick to give Congress an excuse for appropriating the western charter lands of Virginia and the states south of her.

The origin of this New York legislative act, the manner of its passage, its intent, its legal effect, and the way it was used by those who were conspiring to get Congress to appropriate the western country—particularly that within the charter bounds of Virginia, including Kentucky—have been little understood and never anything like adequately explained. Yet upon the outcome in Congress of this New York "cession" hung the destiny of Kentucky and the whole trans-Allegheny region. It involved

¹¹ *Journal of Continental Congress*; Virginia State Library, *Journal House of Delegates*, December 10, 1779, pp. 13 and 24.

the title to every acre of land there, and the jurisdiction and government of the people there. It was to determine whether they should be citizens of Virginia, or governed as territorial subjects by the continental government, or perhaps divided and distributed amongst the thirteen individual states. It seems high time, therefore, that the facts about the New York cession as they appear in the contemporary documents should be set forth and explained.

New York's boundaries were not fixed by her charter,¹² which was a most extraordinary one. Granted by that royal scapegrace, Charles II, to his brother James, Duke of York and afterward King James II, the charter gave the eastern boundary of the colony as running from the St. Lawrence River "to ye east side of Delaware Bay," but in what direction, or how far *west* the grant was to extend from that eastern boundary, or whether it was to extend anywhere, the charter did not say! To remedy this defect, a clause was inserted in the grant which, for faithless disregard of royal honor, is seldom found paralleled, save in the history of Stuart perfidy. The clause declared that the grant should be legal, notwithstanding the territory granted was not described by "the meets and bounds thereof," and notwithstanding conflict with previous grants made by the King or his predecessors.¹³ It was under such vague and lawless grants that the settlements of the colony gradually extended until blocked, towards the north and west, by the Six Nations.¹⁴ How limited was the area of those settlements just before the Revolution, and how vague and limited was the claim of New York to western country (even as based on the fictitious claim of title for the Six Nations), will appear from the report of Governor Tryon on New York boundaries in 1774, made by direction of the British Board of Trade:

"Question 2. What are the reputed boundaries and are any generally disputed and by whom?

"Answer. The boundaries . . . are derived from two sources, First, grants [from King Charles and James I

¹² It appears in *Report of the Regents of the University on the Boundaries of New York*, I:10 et seq., and *Federal Constitutions and Colonial Charters*, Vol. VI.

¹³ *Report of the Regents, etc.*, I:19.

¹⁴ *Id.*; *Colonial Documents of New York*, VIII; *Documentary History of New York*, II.

"from the head of the Connecticut River to the source of Hudson River, thence to the head of the Mohawk Branch of the Hudson River, thence to the eastern side of Delaware Bay,"] Second, from the submission and subjection of the Five Nations who were in the Treaty of Utrecht acknowledged by France to be subjects of Great Britain. . . . It is uncertain to this day to what extent the Five Nations carried their claim to the westward and northward, but there is no doubt it went to the north beyond the 45th degree latitude and westward to Lake Huron, their beaver hunting country being bounded to the west by that lake, which country the Five Nations by treaty with the governor of this province at Albany in 1701 surrendered to the Crown to be protected and defended for them. Mitchel in his Map extends their claim much farther westward and he is supported in this opinion by Maps and other Authorities very Ancient and Respectable."¹⁵

The claim which it was now designed to set up for New York and have that state cede (or rather, *seem* to cede) was based both on a fiction and on an utterly untenable legal assertion. The fiction was that the Six Nations, being subjects of New York, had conquered all the Indians living within a vast and wholly undefined western region including the coveted charter territories of Virginia and other southern states. The untenable legal assertion was that therefore all these territories became the property of New York! The flaw in this legal inference will be readily seen. Boundaries between civilized states did not depend upon "Indian titles," but upon charter grants, treaties, or other acknowledgments from the governments of such civilized states. If the New York Indians had overrun Indians living in Massachusetts, and claimed the latter's lands there, this would not have given New York title to those Massachusetts lands. Had mere "Indian titles" been recognized as effacing charter boundaries, there would have been no end of quarrels between the colonies. A remnant of Delaware Indians living in Pennsylvania were conquered and for a time held in subjection by the Six Nations; but no one ever thought New York thereby became owner of the Delaware lands in Pennsylvania. Yet, upon no better ground than just such pretended succession to the alleged "Indian title" of

¹⁵ Dated London, June 11, 1774.
Documentary History of New York,
I:739.

the Six Nations, the claim was set up for (*not by*) New York to Kentucky and all the rest of the western charter lands.

The way the Legislature of New York was led to make a seeming cession of those lands to Congress will now be explained.

On October 17, 1779, Gen. Philip Schuyler of New York wrote Congress a letter,¹⁶ suggesting a general treaty with all the Indians. The time for one was propitious, but his letter led to results he little foresaw. After the capture of their leader, Hamilton, the western Indians wanted peace; the Cherokees had been defeated by Shelby; the Six Nations had been beaten by Sullivan, and one of them, the Cayugas, had made overtures for peace. To General Schuyler, therefore, the time seemed favorable for a general Indian treaty; but, unknown to him, his proposal suggested to the alert Indiana and Vandalia promoters and their confederates an opportunity to arm Congress with a pretext for appropriating the western charter country of Virginia and the other southern states. What followed is told in a letter which Schuyler soon afterwards wrote to the Legislature of New York, then sitting at Albany.¹⁷

After stating the need for a general treaty with the Indians, he said he had advised Congress "of the overtures made by the Cayugas," and strongly urged that the Six Nations and other Indians be invited to a general treaty meeting. Much to his annoyance, Congress was slow in acting on his proposal; but those who wished it to appropriate the western country were far from being slow. A committee favoring their aims was appointed, and on November 27th, when all but one of Virginia's delegates were absent and the state had no vote, made a report. Thereupon:

"Congress took into consideration the report of the committee, consisting of Mr. Forbes [of Maryland], Mr. Sharpe, Mr. Morris, on a letter of the 17th. of October last, from Major-general Schuyler; and thereupon agreed to the following: . . . Congress are disposed to peace: the conditions on which they insist are: *First*, that it shall be supplicated on the part of the enemy; *secondly*, that they shall surrender all the Americans in their hands; *thirdly*, that they shall surrender all British agents and emissaries; *fourthly*, that they

¹⁶ *New York Legislative Papers* No. 1544; *Journal of Continental Congress*; and *Papers of Continental Congress*.

¹⁷ *Report of Regents of University on Boundaries of New York*.

shall covenant to deliver up all such as shall hereafter go among them; *fifthly*, that they shall covenant not to take up the hatchet again under penalty of being driven from their country; and *sixthly*, that they shall give hostages for their strict adherence to the promises to be made by them."¹⁸

So far, this resolution of Congress had no bearing upon the western land question, but Forbes (one of the most active of Virginia's opponents) immediately moved to add the following significant amendment:

*"That Congress are willing to accept of any cession of territory, which the said Indians may be inclined to make to the United States, reserving to any particular state their right to a prior claim to the territory aforesaid."*¹⁹

This, of course, would have given Congress a pretext to claim title under the ceding Indians in opposition to Virginia, or other claimant states, and force them to assert against Congress their "prior claim to the territory." Marchant, of Rhode Island, seconded by Forbes, went further. They moved another amendment, as follows:

*"That it be one condition of the peace that no land be sold or ceded by any of the Indians, either as individuals, or as a nation, unless to the United States of America, or by the consent of Congress."*²⁰

General Schuyler innocently thought these amendments were designed to get a cession to Congress of Six Nation lands in New York and therefore indignantly opposed them. In his letter to the New York Legislature, he said:

"Whilst the report of the committee on the Business I alluded to was under consideration, a member moved, in substance, 'That the Commissioners of Indian Affairs in the Northern Department should require from the Indians of the Six Nations, as a preliminary article, a Cession of part of their country, and that the Territory so to be ceded should be for the Benefit of the United States in general & grantable by Congress.' A measure so evidently injurious to this state, [New York] exceedingly alarmed and chagrined those whose duty it was to attend to its interests. They animadverted with Severity on the unjustifiable principle held up in the motion; the pernicious consequences of divesting a State of

¹⁸ *Journal of Congress* (old), V: 326.

¹⁹ *Id.*

²⁰ *Id.* 327.

its undoubted property, in such an extra-judicial Manner, was forcefully urged; the Apprehensions with which it would fill and affect the minds of a people [of New York] who had been as firm in the present glorious Contest, who had made more strenuous and efficacious Exertions to support it, had suffered more and still suffered as much as any, were strongly painted."

Schuyler little suspected the real design of Forbes and his confederates. He did not know that, in seeking a cession of lands by the Six Nations to Congress, there was no thought of despoiling New York of any lands really owned by her, but that the design was to get from those savages a pretended cession of lands to which neither they nor New York had any real claim whatever. Supposing, however, that the amendments aimed to deprive New York of her lands, he said further:

"We had, a few days after, a convincing proof that the idea prevailed that this and some other states ought to be divested of their Territory for the Benefit of the United States, when a member afforded us the perusal of a resolution, for which he intended to move the House, purporting 'that all the lands within the limits of any of the United States, heretofore grantable by the King of Great Britain whilst these States (then colonies) were in the Dominion of that prince and which had not been granted to Individuals [thus shrewdly exempting "Indiana," which would be claimed to have "been granted to individuals," namely, "the poor despoiled traders"]', should be considered as the *joint property of the United States and disposed of by Congress for the benefit of the whole Confederacy.*'

"The Necessity and propriety of such an arrangement was strenuously insisted upon, in private Conversation, and even supported by Gentlemen who represented States in Circumstances seemingly similar to ours with respect to the object of the intended Resolution. [e. g., Connecticut.] It was observed that if such States whose Bounds were either indefinite, or were pretended to extend to the South Sea, would consent to a reasonable Western Limitation, it would supersede the Necessity of any intervention by Congress, other than that of permanently establishing the bounds of each State, prevent controversy, and remove the Obstacle which prevented the Completion of the Confederation.

"As this State would be eminently affected by such a Measure, it was deemed of Importance as fully to investigate their Intentions as could be done consistent with the

Delicacy and prudence to be observed on so interesting an Occasion, and a Wish was accordingly expressed, as arising from mere Curiosity, to know their Idea of a reasonable 'Western Limitation.' This they gave by exhibiting a Map of the Country. . . . [It gave New York more territory than she really owned, and mark what he next says:] *Virginia, the two Carolinas and Georgia they proposed to restrict by the Allegheny Mountains, or at farthest by the Ohio to where that River enters the Mississippi, and by the latter River to the South Bounds of Georgia,—that all the Territory to the west of those Limits should become the property of the Confederacy.*"²¹

In other words, Schuyler was led to believe that the only territory Congress was to get from the Indians was the western charter territory of Virginia, the Carolinas and Georgia. Naturally his fear that New York was to be despoiled was allayed; but his opposition to despoiling the southern states was shown by his moving to add to Forbes' resolution these words: "*which cession shall be for the benefit of such state as may have a prior right.*"²² In every instance he voted with the southern states against the appropriation of their lands by Congress. He concluded his letter to the New York Legislature by saying:

"My Colleagues were in Sentiment with me that it should be humbly submitted to the Legislature if it would not be proper to communicate their pleasure in the premises by way of Instruction to their Servants in Congress."

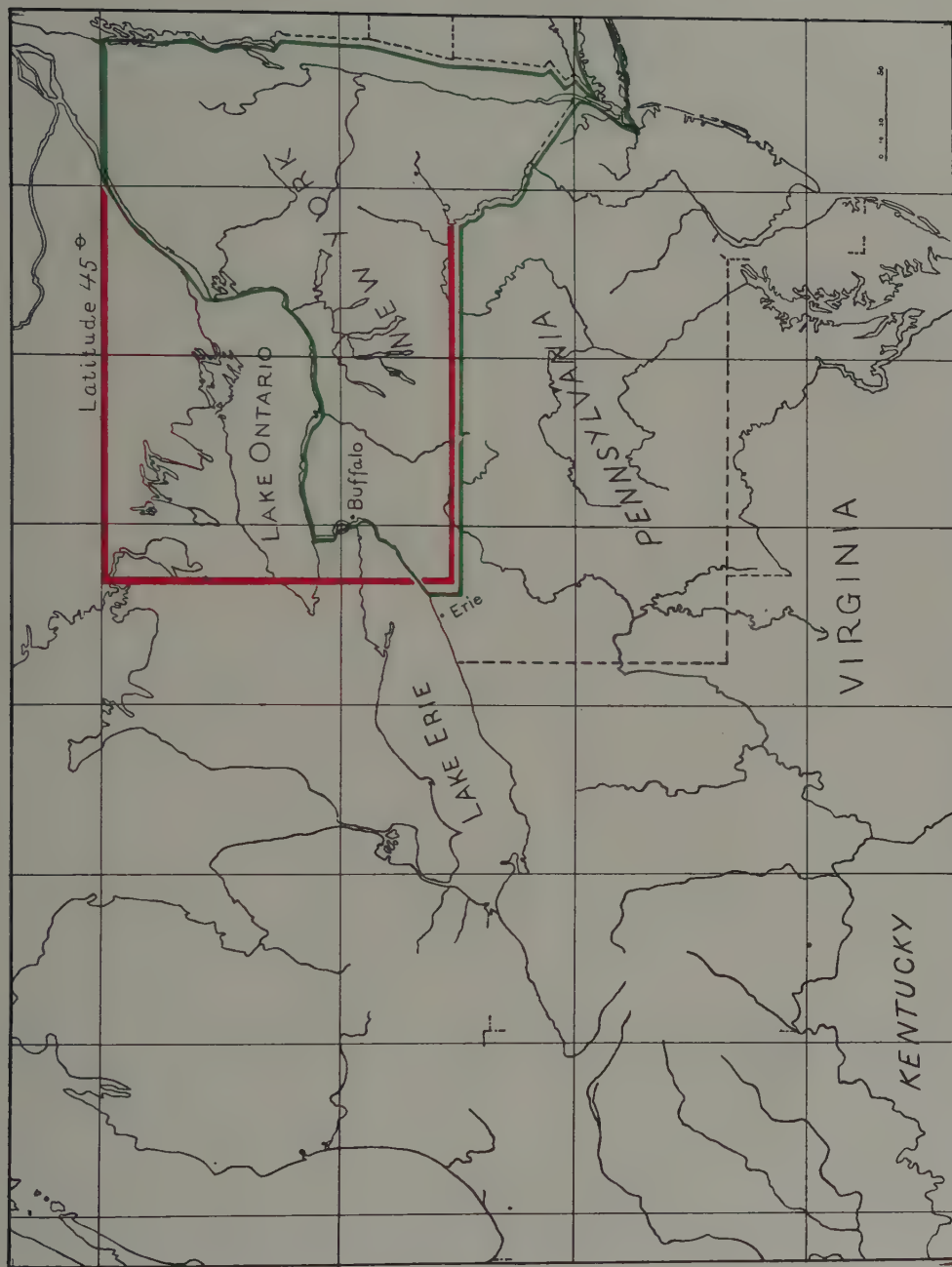
General Schuyler, one of the purest of Revolutionary characters, after writing this letter retired from Congress and had no further connection with the cession affair.

The land company promoters, and the delegates who were endeavoring to get Congress to appropriate the western lands, doubtless learned that Schuyler would refer the matter to the New York Legislature. Indeed, they may have suggested his

²¹ *Report of Regents of the University on Boundaries of New York.* Author's italics.

²² *Journal of Congress* (old), V: 326. By informing Schuyler that the southern colonies were to be restricted "by the Allegheny Mountains, or at farthest by the Ohio,"

he might be prevented from suspecting that the Indiana and Vandalia promoters were back of the scheme; but we may be sure the main aim was to restrict Virginia by the Alleghenies and enable Congress to confirm the claims of the promoters in West Virginia and Kentucky.



BOUNDARIES OF NEW YORK AT PRESENT ENCLOSED IN GREEN LINES —
BOUNDARIES OF NEW YORK AS RESERVED IN THE INSTRUCTIONS
(1780) TO HER DELEGATES IN CONGRESS ENCLOSED IN RED LINES —

doing so, well satisfied that the Legislature, if adroitly approached, would make no objection to authorizing a cession to Congress of lands which New York did not own, and especially when the cession would make her one of the thirteen state beneficiaries. By such a cession she certainly could lose nothing, but would gain many million acres of valuable western lands.

Let us now see what was done by the New York Legislature on receipt of Schuyler's letter. It was read to the Senate February 1, 1780, and a committee was at once appointed to report "the steps proper to be taken by the Legislature." Then, from day to day,—without debate, and without a day's avoidable delay—a bill entitled "An act to Facilitate the Completion of the Articles of Confederation and perpetual Union among the United States of America" was hurried through both houses of the Legislature as fast as their rules of procedure allowed, and was adopted February 19th. It would be interesting to know what representations were made by those who engineered the bill to induce the legislators to vote for it, and how many of the legislators had the least idea of its contents, or of the way it was to be used.

After a high-sounding preamble, reciting that "the Articles of Confederation, have not proved acceptable to all the states" and that it is "conceived that a portion of the waste and uncultivated territory within the limits or claims of certain states ought to be appropriated as a common fund for the expences of the war," and after declaring New York's desire "to promote the general interest and . . . accelerate the federal alliance by removing . . . the before-mentioned impediment to its final accomplishment," the act authorized the state's delegates in Congress "on behalf of this state, and by proper acts and instruments, to limit and restrict the boundaries of this state, in the western parts thereof, by such line or lines and in such manner and form as they shall judge expedient." The act further provided "that the territory, which may be ceded or relinquished by virtue of this act, . . . shall be and enure for the use and benefit of such of the United States as shall become members of the federal alliance of the said states and for no other use or purpose whatsoever."²³

²³ *Report of Regents on Boundaries of New York*, Vol. I; *Journal of Continental Congress*, XIX:208.

On its face, this legislative act seemed to give the delegates an unrestricted and most extraordinary power to dismember the state "in the western parts thereof . . . as they shall judge expedient." No such discretion was in fact given them, however, for in carefully drawn instructions to them the Legislature *defined the boundaries of the state to embrace its utmost real territorial claims and expressly forbade the delegates to cede any land within them!* These instructions (quoted below) reserved to New York much more territory than it really owned, for it was made to embrace a large part of Canada, including Toronto and Kingston, and a part of the "Pan-Handle" of Pennsylvania extending to Lake Erie.²⁴ (See map opposite.)

Those who procured the passage of the act evidently never intended, however, that these *instructions* should be disclosed to Congress, or become known to the delegates of Virginia or other southern states whose charter lands it was designed to have Congress appropriate. Promptly after its passage the New York legislative *act* was read in Congress, but *not the instructions!*²⁵ They were kept a close secret, and nowhere appear in the journals of Congress. The members from Virginia and the other southern states were left to suppose there were none. So far as

²⁴ "You shall in no case restrict or limit the bounds of the State so as to exclude or relinquish any part of the Territory comprised within the following description, which you are to consider and Maintain as the *ultimatum* of this state, both in respect of the right of soil or pre-emption from the natives, to-wit: A line from the northeast corner of Pennsylvania, along the north bounds thereof, to its northwest Corner, continued due west until it shall be Intersected by a meridian line to be drawn from the 45th degree of North latitude thro a point twenty miles due west from the most westerly bent or Inclination of the River or Strait of Niagra, thence by the said Meridian line to the 45th degree of North latitude and thence by the 45 degree of

North latitude. *Provided* Nevertheless that if the Great object of the Said Act can not otherwise be accomplished you Shall be at liberty to cede for the benefit of the United States the right or pre-emption of soil, reserving the jurisdiction, or even both the right of pre-emption of soil and jurisdiction of that tract of land, part of the Territory described in this *ultimatum*, which lies [in Canada] east of the meridian line mentioned in this *ultimatum*, and north of the 44th degree of north Latitude and of the Lake Ontario and of the River St. Lawrence." (*Report of Regents on Boundaries of New York*, I:149-154.)

²⁵ *Journal of Continental Congress*, XVI:237; Id., XIX:208.

they could tell, the New York delegates seemed to be given unlimited power to dismember their state "in the western parts thereof, as they shall judge expedient." Apparently many historians believe that to this day.

Hardly had the act been read in Congress before the expectant beneficiaries boldly asserted that New York owned, and her Legislature had authorized her delegates to cede to Congress, the whole great undefined western region, including Kentucky, West Virginia and, of course, "Indiana" and "Vandalia." In truth, the New York Legislature had done nothing of the kind. It made no claim to any part of that region, was not asked to cede any of it to Congress, never did so, and never intended doing so. Had the legislators believed their state had any sort of real claim to so vast and valuable an empire, we may be sure they would have described just what territory they were granting away, and would have demanded that their deeply indebted state should receive substantial compensation for it. Neither was done! Evidently all of them who took pains to inquire about the meaning of the act were led to believe the cession would not cause the state to lose a foot of territory to which she had any real right; and in fact it did not.

Indeed the legislative act gave no indication whatever that the Six Nations, or New York, ever owned or claimed any land in the disputed western region, or that the legislators thought they were authorizing the delegates in Congress to give away an acre of it, much less to make a free gift of a priceless empire nearly eight times as big as their whole state! For shares of it the thirteen states had bitterly quarreled in Congress for six years; yet never before had Congress been told that New York claimed any title to it. Under these circumstances one would naturally expect some explanation to Congress of the nature and extent of the state's title, and of the precise territory to be ceded; but none was vouchsafed.

The legislative act was shrewdly drawn to *seem* to say the New York delegates were authorized to cede lands "in the western parts" of the state, but it said nothing of the kind. They were "authorized . . . to *restrict*" the boundaries to the area particularly described, but not to *cede* any lands outside of it. The act does indeed vaguely and very deceptively mention "territory which may be ceded" and "lands to be ceded," but only by

strained implication could a court find in it any warrant given the delegates to make any cession whatsoever. At best a deed of cession by them could only be a "quitclaim," which does not imply any title, but merely waives any claim to one. Considering the vastness and value of the country involved, certainly the New York legislative act was amazingly vague if intended for more than a pretense of authorizing a cession.

After this extraordinarily obscure and indeed almost unintelligible act was read in Congress, almost a whole year was allowed to pass before any *deed* of cession was offered by the New York delegates. Meantime, an active propaganda was carried on to make people believe the Six Nation claim set up for New York was genuine and that her expected cession would be real. Amazed and indignant, the Virginians and other southerners denounced the claims as false; but they did not know enough of the facts to expose either the fiction of vast Six Nation conquests, or the imposition involved in the pretended cession. The propaganda was doing its work, and soon there was a more or less general belief that New York really did claim ownership of the great region west of the Alleghenies, that the deed her delegates would make could legally convey the whole to Congress, and that thereupon Congress would be empowered to appropriate the region and confirm the Indiana and Vandalia claims.

Indeed, Congress itself, by the votes of a northern majority, proceeded to treat the New York legislative act as if it had been a veritable offer to cede the western country. On June 26, 1780, it referred the New York act, the Maryland contention, and Virginia's remonstrance to a committee, although no *deed* of cession had been received from the New York delegates. The committee, however, went no further than to recommend that, in order to prevent a disruption of the Confederation, the states claiming western territory should make liberal surrenders of it, and that Maryland be earnestly requested to ratify the Articles of Confederation.²⁶ The Virginia delegates, Madison and Jones, responded, the same day (September 6, 1780) by offering a significant resolution, intended to indicate the terms on which Virginia would be disposed to cede part of her western territory. Those terms were:

²⁶ *Journal of Continental Congress*, XVII:806.

(1) That the ceded lands should be laid out in separate and distinct states; (2) that the rest of a ceding state's territory (e. g., West Virginia and Kentucky) should be guaranteed to her; (3) that a ceding state (meaning particularly Virginia) should be reimbursed her expenses incurred "in subduing British posts within the territory ceded;" (4) that the cessions should be for the benefit only of states joining the Confederacy (thus excluding Maryland unless she joined); and (5) that purchases by private persons from Indians of lands within the ceded territory (e. g., the Indiana Company) should be void.²⁷

Of course the land companies, and northern delegates coöperating with them, bitterly opposed this resolution. On October 10th a committee favoring them reported, and Congress adopted a resolution which accepted Madison's proposals to divide any ceded territory into separate states and reimburse expenses of subduing British posts, but omitted any guarantee of the ceding state's remaining territory.²⁸ The committee also altered his provision annulling purchases from Indians so as virtually to except those made by the Indiana and Vandalia companies!

The great controversy in Congress was left in this situation during the remainder of 1780. Virginia had made no cession, but only intimated one; New York had done no more, for her delegates had made no deed of cession. Meantime important events were occurring in the West to which attention will next be given.

²⁷ *Id.*, 806, 808.

²⁸ *Id.*, XVIII:815, 915.

CHAPTER XVIII

KENTUCKY DISSENSION AND INVASION

The great immigration to Kentucky before and during 1780 made a marked change in the character of its people. The newcomers usually differed much from the strong-fibred pioneers who had been battling for the country. They were usually poor people who came to get cheap lands, and many had left their eastern homes to avoid taxation and military service. Great numbers came down the Ohio from Pennsylvania, and brought with them the bitter prejudice prevailing in that state against Virginia; and they proved ripe material for opposition to her government. They found most of the good lands taken up by Virginians, whom they soon outnumbered in many places; and many of them were soon disputing Virginia's land grants,¹ and petitioning Congress to claim the country and redistribute the lands. Thus arose the "New State Movement" in Kentucky, which was very actively encouraged by the Indiana and Vandalia "land jobbers," as Madison called them. They resorted to many devious methods to influence Congress to seize the trans-montane territory, while their emissaries in Kentucky mightily busied themselves in secretly stirring up disaffection toward the Virginia government. Col. George Morgan, one of the first and most active members of the Indiana Company, wrote to his fellow promoter Trent (September 8, 1780):

¹ An early protest against Virginia's land grants was made by fifty-six of the newcomers in a hot petition to the Assembly, saying that without relief "we must lie under the disagreeable necessity of going down the Mississippi to the Spanish protection or becoming tenants to private gentlemen who have

men employed at this juncture in this country at one hundred pounds per thousand for running around the land which is too rough a medicine ever to be digested by any set of people who have suffered as we have." (Virginia State Library, loose.) Many like petitions followed.

"I have a Letter by me from a Gentleman of Veracity, wrote in Confidence—A Paragraph of which I wish could be communicated to some Members of Congress when you go to Phil^a. but to no other Persons, as, should it come to the Enemies Knowledge, they might but too easily bring in too many in the Western Parts of Virginia to agree with their Brethren of Kentucke—This is the Consequence of Congress not having taken on themselves the disposal of all Crown Lands—The Paragraph is as follows—

"'We have distressing News from Kentucke, which is entirely oweing to a Set of Nabobs in Virginia taking all the Lands there by Office-Warrants, & Pre-emption Rights. Hundreds of Families are ruin'd by it—In Short it threatens a Loss of that Country—Should the English go there & offer them Protection from the Indians, the greatest Part will join—It is a Truth that the People there publicly say it—Let the *great Men*, say they, who the Land belongs to, come & defend it, for we will not lift up a Gun in Defence of it.' It is dated Ohio July 24th 1780.

"It is [most] extraordinary that Congress remain so passive in these Matters—but will it not appear much more surprising, when it is found out, that the United States pays, feeds, & transports the Troops of Virginia raised under [the] Influence of certain Nabobs of that State to secure Surveying their Office & Pre-emption Rights—though under Pretext of defending the Frontiers—By the Treaty at Fort Stanwix it was expressly stipulated that the Kentucke Country should not be Settled by Us—Yet Virginia has ever since the Revolution been provoking the Indians to a War, the Expences whereof the other States must pay & receive no Advantages from—On the contrary we are obliged by their Conduct to multiply our Defences & thereby take off from our Main Armies, such Forces, as, joind to it, would render it respectable—

"I am Dr Sir

"your very hum^l Servant

"Geo: Morgan"

"Major Trent—

"Trenton—

"PS. Should it be absolutely necessary, my Name may be mention'd—but not otherwise—for I have already incurred the Hate of the Nabobs of Virginia & their adherents, by a steady Attention to the Interests of the United States, in preference to the partial Views of One. Should the English offer Terms of Neutrality to any particular District, I fear

the Frontier Settlements would speedily be depopulated. You & I are too well acquainted in that Country, not to know this."²

The general poverty of the people, the demoralizing effect of scarce and bad money, the confusion and military exactions unavoidable during a destructive savage war, the distance from the state capital, and finally, the poverty and increasing inefficiency of the state government, and its neglect to give sorely needed aid for the defense of Kentucky, all were causes which combined to spread discontent and further the seditious aim of the conspirators. Even some prominent men of Virginian birth joined them. For a time the "New State Movement" seemed dangerously near ending Virginia's rule over Kentucky. Had the mother state abandoned her citizens there, several considerations make it difficult to see how Kentucky, or the rest of the trans-Allegheny region, could have been saved as part of the United States.

Instigated by agents of the land companies, petition after petition was sent by the new-state malcontents to Congress, asking it to appropriate Kentucky.³ Not content with sowing disaffection toward Virginia amongst the inhabitants there, some of the conspirators attempted to induce her sworn military and civil officers to turn against her; but, to their credit, none would do so. An effort was even made to seduce Colonel Clark, but he promptly repelled it. Writing to his father (August 23, 1780) he said:

"The partisans in those countries are again soliciting me to lead them as their Governor-General, as all those from foreign states are for a new government; but my duty obliging me to suppress all such proceedings I shall consequently lose the interest of that party."⁴

Henceforth he became the special object of their enmity.

Besides their other troubles, in the spring of 1780 the Kentucky settlers found themselves facing new and profound dangers. The British were organizing four coördinated and power-

² Holograph, *Draper MSS.*, 46 J 59.

³ *Papers of Continental Congress*, 167-203, 206-09, 210-17, 218-33, 234-45. See others noted in *Journal of Continental Congress*.

⁴ Original letter in *R. C. Ballard Thruston's MSS.*; *Illinois Historical Collections*, VIII:453; English's *Conquest of the Northwest*, p. 40 (facsimile).

ful expeditions to drive the Americans from the Ohio Valley, and bloody times followed. Major Sinclair, commanding at Mackinac, sent about a thousand Sioux Indians and white traders down the Mississippi to capture the Illinois towns and St. Louis; while another large force, under General Campbell, was to come to Pensacola by sea, reduce Spanish Louisiana, and thence proceed up the river to join Sinclair's expedition. A third force of British-led Indians was to operate between the Wabash and Illinois rivers, while a fourth, consisting of a thousand Indians and a few whites, led by Col. Henry Bird, was to attack the fort at the Falls of Ohio before Clark could get there from Fort Jefferson.⁵

Many letters show the general alarm in Kentucky and the presence of raiding Indian parties there. May 31st Floyd wrote:

"Hardly one week pass[es] without some one being Scalped between this and the Falls and I have almost got too cowardly to travell about the woods without company. . . . Abram Chaplain and another man left the Tawas [Wyandots] about the 27th of April, and bring accounts that about 600 English with the united enemy Indians are now preparing to march against the Falls with artillery. I have no doubt about the truth of this report, and unless their intentions are frustrated by Colo Broadhead, who I hear is about to carry on an Expedition against the Shawanese, it is very likely they may succeed in their design. . . . Most of the people who have no families in the Country are flying to the Settlement, and others who cannot go declare against defending the country because they have no land. We have engaged a few spies to go up to Miami & bring us word when the Enemy are on their march."⁶

In May, Colonel Montgomery, who had been left in command of the Illinois towns, sent a hurried message to Clark at Fort Jefferson that Cahokia was about to be attacked by Sinclair's Indian horde. Montgomery afterward wrote that Colonel Clark "hurried his departure with a small body of troops [and] luckily joined me at Cahokia time enough to save the country."⁷ The enemy was beaten from that place and then, crossing the Mis-

⁵ *Michigan Pioneer Collections*, IX:398, 548-9. Id., X:398.

⁶ *Draper MSS.*, 17 C C 24. To the like effect see Bowman's letter to

Brodhead, May 27, 1780, *Letters to Washington*, Vol. 38, p. 288.

⁷ *Virginia Calendar State Papers*, III:448.

issippi, attacked St. Louis, but unsuccessfully.⁸ Montgomery said Clark then sent him with a considerable force to pursue the retreating enemy and himself "left Cahokia the 4th of June, with a small escort" for Fort Jefferson. Thence Clark sent a small body of troops in boats up the river to the relief of the Falls fort and on the 10th himself "with two men set off to go by land to the Falls of Ohio."⁹ All three were dressed as Indians to avoid many raiding parties of savages then infesting the 200 miles of intervening wilderness.

Colonel Bird's letters to his superior at Detroit show that he was very anxious to beat Clark in the race to the Falls,¹⁰ but in this he failed. He said that when his Indians learned that Clark was there they declined to go against him and proposed attacking the forts along the Licking River. Bird was disgusted with them, saying "Their attack on the little forts—their numbers being so great—is mean of them,"¹¹ but he could not persuade them to attack the Falls. Instead they crossed the Ohio and marched against Ruddles Fort, where the people made a stout resistance from daybreak to noon, but then surrendered, as Bird said, "on condition that their lives should be spared and themselves taken to Detroit."¹² The Indians agreed to this, but Bird was unable to shield his prisoners from them. He said the savages "rushed in, tore the poor children from their mothers' breasts, killed a wounded man and every one of the cattle, leaving the whole to stink."¹³

Martin's Fort was next attacked, and then another, and at both Bird said "the same promises were made and broke in like manner. . . . The Rebels ran from the next fort and the Indians burned it. They then heard the news of Colonel Clark's coming against them and proposed returning."¹⁴

Bird's report shows that with between three and four hundred prisoners, "some sick and some wounded," and (the cattle all having been killed),

"The Prisoners in danger of starving . . . the Indians almost all left us within a day's march of the enemy. It was

⁸ For particulars of both attacks see author's *George Rogers Clark*, p. 161.

⁹ *Daniel Smith's Journal*, Draper MSS., 46 J 8. The men accompanying Clark were Silas Harlan and Herman Consally (Consoley).

¹⁰ *Michigan Pioneer Collections*, XIX:527, etc.

¹¹ *Id.* 534.

¹² *Michigan Pioneer Collections*, XIX:534.

¹³ *Id.*

¹⁴ *Id.* 539.

with difficulty I procured a guide through the woods. I marched the poor women and children 20 miles in one day over high mountains, frightening them with frequent alarms to push them forward. In short, Sir, by water and land we came, with all our cannon, &c. 90 miles in 4 days, one day out of which we lay by entirely—rowing 50 miles the last day up stream.”¹⁵

A dreadful journey, this, through a rough wilderness, for sick and wounded men and for famished women and children, “frightened with frequent alarms” and thus urged on until exhausted. But they had traveled less than a third of the toilsome way to Detroit. Of the rest of the journey Bird gives no report, but over a month later Major de Peyster, commanding at Detroit, wrote:

“Captain Bird arrived here this morning with about one hundred and fifty prisoners, mostly Germans who speak English, the remainder coming in—for in spite of all his endeavors to prevent it, the Indians broke into their fort and seized many. The whole will amount to about three hundred and fifty.”¹⁶

What became of the remaining two hundred prisoners is unknown, or how many died on the way of wounds, or starvation; or how many were enslaved or tomahawked.

Soon after Bird’s raid into central Kentucky,¹⁷ Fort Jefferson on the Mississippi was viciously attacked by a large force of Chickasaw Indians under the leadership of the half-breed Colbert. The nearly-starved inhabitants took refuge in the fort, and for three days it was resolutely assailed, but as resolutely defended. A contemporary letter describes the affair:

“Provisions being scarce & a party sent to kaskaskia for provision, which the Indians well knew: the[y] informed the Commander of the fort that the[y] had sent a Number of Warriars to take their party sent for provisions & the[y] should have no Relief Colbert, who Commanded the Indians, Sent a flag into the fort, and Informed the Commanding officer to Surrender the fort, as he well new their Situation for provisions, & that the troops and famelys Should be kindly treated & taken Safe to his Nation—Other

¹⁵ Id.

¹⁶ Id.

¹⁷ The date is variously given.

wise he would put them all to Death, which Alarmed the Soldiers & Officers & Militia & . . . the Commanding officer Informed Colbert who carried the flag he would hold a Council with his officers and the Militia officers & give him a Answer that evening Accordingly a Council was held . . . Colbert in the evening Returned with his flag—the Militia Immediately prepared themselves for Battle, having some Swivels in the Block houses which Commanded the lower grounds—some Indeans, who were Friends & was with the Militia in the Block house, fired on Colbert & his flag & wounded Colbert so that he fell—the Indians finding their Commander wounded Gathered all their force and at Night began a termenduous fire on the fort Advancing up from all quarters till they were Crouded very Close Capt Owen who Commanded the Block houses had the Swivels loaded with Rifle and Musquet balls and leveled them amongst the croud which Dispersed the Indians the fireing ceased & the Indians Marched away.”¹⁸

At a critical stage of the attack a young girl, Nancy Ann Hunter, displayed quick wit and bravery rarely excelled. In the fort were many infants, likely to die for want of nourishment; while outside, but within range of the Indian guns, was a cow with a young calf. Bringing that cow into the fort meant the saving of young lives.

“While the men were parleying what to do, and hesitating to expose themselves, Nancy Ann Hunter ran into the open space and taking up the calf brought it within the enclosure, the cow following, while shots of the savages whistled by and cut her clothing, herself unharmed.”¹⁹

Had this young heroine’s performance been in New England, where the printing press ran and books were written, instead of in the far western wilderness, perhaps Nancy Ann Hunter would be celebrated in history, romance and song, and known to every school girl in the land.

On learning that Bird, instead of attacking the Falls, had destroyed the forts on the Licking and returned toward Detroit, Colonel Clark resolved upon a prompt counter attack on the Shawnee towns. Leaving orders for a force from the Falls to meet

¹⁸ Patton’s Narrative, holograph, *Draper MSS.*, 49 J 89. Patton was not present at Fort Jefferson, but his account has been commonly accepted.

¹⁹ R. T. Durrett’s Louisville Address, August 2, 1883.

him at the mouth of the Licking, he went to Harrodsburg to gather additional men. There he found the people in great excitement over land speculation and the registry of claims, but little concerned about the savage war! To put a stop to this excitement and gain recruits for his expedition, he requested the register to close his land office; but that official declined to do so. Thereupon Clark usurped authority and closed it. The result is described in his letter to Governor Jefferson from Louisville, August 22, 1780:

“By every possible exertion, and the aid of Colonel Slaughter’s corps,²⁰ we completed the number of 1,000, with which we crossed the river at the South of Licking on the first day of August, and began our march on the 2^d. Having a road to cut for the artillery to pass, for 70 miles, it was the 6th before we reached the first town [Chillicothe] which we found vacated, and the greatest part of their effects carried off. The general conduct of the Indians, on our march, and many other corroborating circumstances, proved their design of leading us on to their own ground and time of action.

“After destroying the crops and buildings of Chillicothe, we began our march for the Picaway settlements, on the waters of the Big Miami [near Springfield, Ohio], the Indians keeping runners continually before our advanced guards. At half past two in the evening of the 8th, we arrived in sight of the town and posts, a plain of half a mile in width laying between us. I had an opportunity of viewing the situation and motion of the enemy near their works.

“I had scarcely time to make those dispositions necessary, before the action commenced on our left wing, and in a few minutes became almost general, with a savage fierceness on both sides. The confidence the enemy had of their own strength and certain victory, or the want of generalship, occasioned several neglects, by which those advantages were taken that proved the ruin of their army, being flanked two or three different times, drove from hill to hill, in a circuitous direction, for upwards of a mile and a half; at last took shelter in their strongholds, and woods adjacent, when the firing ceased for about half an hour, until necessary preparations were made for dislodging them.

“A heavy firing again commenced, and continued severe until dark, by which time the enemy were totally routed. The

²⁰ A hundred men who had been sent out to join Clark at the Falls.

cannon playing too briskly on their works they could afford them no shelter. Our loss was about 14 killed and thirteen wounded; theirs at least triple that number. They carried off their dead during the night, except 12 or 14 that lay too near our lines for them to venture. This would have been a decisive stroke to the Indians, if unfortunately the right wing of our army had [not] been rendered useless for some time by an uncommon chain of rocks that they could not pass, by which means part of the enemy escaped through the ground they were ordered to occupy. . . .

"Having no provisions, except green corn and vegetables, (Our whole store at first setting out being only 300 bushels of corn, and 1,500 lbs of flour); [and] having done the Shawanese all the mischief in our power, after destroying Picaway settlements, I returned to this post."²¹

During the battle occurred an affecting scene. Amongst those who had been with Clark and Jones when nearly four years earlier they brought down the 500 pounds of powder sent to the Kentucky pioneers, was Joseph Rogers, who was reported killed by the Indians. In fact, however, he had only been taken prisoner by the Shawnees, who adopted him into their tribe. He was present at the battle and, dressed like a savage, ran towards the white troops crying to them: "I am a white man—don't shoot," but he fell mortally wounded by his friends.²²

During this troublous year of 1780 Kentucky was made a District of Virginia and divided into three counties: Fayette, Lincoln, and Jefferson. Fayette, embracing the northeastern part of the district, lay eastwardly of the Kentucky River; Lincoln lay south of Fayette and of that river; while Jefferson lay westwardly of the Kentucky and of the western boundary of Lincoln, and extended to Green River.²³ Prior to this division, Col. John

²¹ *Draper MSS.*, 8 J 136-7; *Illinois Historical Collections*, VIII:451.

²² *Conquest of the Northwest*, 683-4. Rogers' nephew and namesake, Joseph Rogers Underwood, was an eminent jurist of Kentucky and U. S. senator, whose grandson, Oscar Underwood, is the distinguished ex-U. S. senator from Alabama.

²³ It was described in the act creating it as "that part of the south side of Kentucky river which lies

west and north of a line beginning at the mouth of Benson's big creek, and running up the same and its main ford to the head; thence south to the nearest waters of Hammond's creek, and down the same to its junction with the Town Fork of Salt river; thence south to Green river, and down the same to its junction with the Ohio." (*Hening's Statutes at Large*, X:315; May session, 1780; Collins' *Kentucky*, II: 355.)

Bowman had been county lieutenant of Kentucky. Thereafter his command ceased and a county lieutenant was appointed for each of the three new counties—Benjamin Logan for Lincoln, John Todd for Fayette, and John Floyd for Jefferson.²⁴ They commanded the militia of their respective counties. Colonel Clark's troops of the Illinois Regiment were *state* troops; he had no authority over the county militia, unless under special orders from the governor.

The citizens of Virginia living between Green River and the Mississippi, having been left out of the "District of Kentucky" manifestly needed a local government of their own, and the trustees of Clarksville wrote to Colonel Clark begging him to use his influence to secure them one;²⁵ but engrossing warfare prevented anything being done about it, and the next year there were no people left there to govern. This year also the town of Louisville was established by the Assembly at its May session.²⁶

Another interesting act of this Assembly was one providing for the escheat and sale of property in the district belonging to

²⁴ Col. William Christian was first appointed, but did not act.

²⁵ The petition appears in *Draper MSS.*, 50 J 44. It was signed by James Pigot, Ezekiel Johnson, Henry Smith, Joseph Hunter, and Mark Iler.

²⁶ Hening's *Statutes at Large*, X: 298. John Todd Jr., Stephen Trigg, George Slaughter, John Floyd, William Pope, George Meriwether, Andrew Hunes, and James Sullivan were named town trustees. A plat of the place found in the survey book of Croghan and Clark, and attributed to Clark, Colonel Durrett said indicated "Main Street with no place for houses on the North Side; but all between that and the river public Squares. Also the public square in the Southern center connecting with other open squares extending the whole Southern length of the city." *Draper MSS.*, 19 J 25.

On January 24, 1780, George Meriwether wrote Colonel Clark: "I shall move out some of my people with my Stocks next fall & the summer after I shall bring my family with eight or ten more families to settle at or near the falls, and I could wish it was in my power to come out Sooner, tho am preparing as fast as I can. I could wish you would Patronize a Petition to have the town on Connellys Land established & have it sent with a plan of the Town to the Assembly in May, for was it established (& I think it would be of advantage to the whole Country by drawing trade) [*MSS. torn*] I would build some good houses on [*MSS. torn*] lots as would likewise my friends that I purchased lots for, & would settle there if the place should not be too sultry." (Holograph, *Draper MSS.*, 50 J 2.

Tory enemies, and applying the proceeds for public education. The act recited that:

"Whereas, it is represented to this General Assembly that there are certain lands within the county of Kentucky, formerly belonging to British subjects, not yet sold under the law of escheats and forfeitures, which might at a future day be a valuable fund for the maintenance and education of youth, *and it being the interest of this Commonwealth always to promote and encourage every design which may tend to the improvement of the mind and the diffusion of useful knowledge even among its remote citizens, whose situation in a barbarous neighborhood and a savage intercourse, might otherwise render [them] unfriendly to science:* be it therefore enacted, that eight thousand acres of land, within the said county of Kentucky, late the property of those British subjects, should be vested in trustees, 'as a free donation from this Commonwealth for the purpose of a public school, or seminary of learning, to be erected within the said county, as soon as its circumstances and the state of its funds will permit'."²⁷

From this act arose the first collegiate institution west of the Alleghenies—the Transylvania Seminary, which, after merger with another, became famous as the Transylvania University, located at Lexington. In July, 1780, an inquest of escheat was held in Lexington to determine whether Col. John Connolly and Capt. Alexander McKee were British subjects and their lands in Kentucky should be confiscated and sold. Connolly owned 2,000 acres in what is now about the center of Louisville, McKee a like acreage on the headwaters of the south branch of Elkhorn Creek near Lexington. The jury, containing a number of prominent men,²⁸ rendered a verdict against both defendants. The sale of their lands, and of others escheated at the same time, were said to have yielded some thirty thousand dollars to the Seminary.²⁹

²⁷ Perkins' *Western Annals*, 223.

²⁸ John Bowman, Daniel Boone, Nathaniel Randolph, Waller Overton, Robert McAfee, Edward Cather, Henry Wilson, Joseph Willis,

Paul Froman, Jeremiah Tilford, James Wood, and Thomas Gant. (Collins' *Kentucky*, II:183.)

²⁹ Id.

CHAPTER XIX

HARDSHIP AND DISCORD

Despite the crushing defeat of the Shawnees in the late summer of 1780, Indian hostilities in the West not only continued, but increased. To stop them, Colonel Clark proposed to Governor Jefferson to carry an expedition against their main breeding place, Detroit, and journeyed to Richmond to confer with him about it. Jefferson, who, more perhaps than any other eastern leader, appreciated the importance of the western war in the struggle for independence, fully approved the plan. He had Clark made a brigadier-general with large discretionary powers, ordered the enlistment of 2,500 men for the expedition, and exerted himself greatly to further it.¹ But just then events occurred which doomed it to failure.

At the very time he and Clark were making their preparations, a British fleet entered Chesapeake Bay with a force under Benedict Arnold which overran Virginia, burned the homes of her citizens, captured Richmond, and destroyed its public buildings; while Lord Cornwallis, with a larger British army, having devastated the Carolinas, was approaching from the south.

Virginia was wholly unprepared for war with such formidable enemies. Her continental troops were serving in other states, her hastily-gathered militia were both raw and scantily supplied with almost every necessary. Under such circumstances every available fighting man was sorely needed at home, and so general was resistance to recruiting for Clark's expedition that it had to be abandoned.²

Another event at this time was even more disastrous for the

¹ See correspondence of Clark, Jefferson, Brodhead and others in *Frontier Advance on the Upper Ohio and Frontier Retreat on the Upper Ohio* (Clara Louise Kellogg), and the second volume of Professor James' *George Rogers Clark Papers, 1781-3*, in *Illinois Historical Collections*, Vol. XIX.

² Id.

western people than the failure of the proposed expedition. This was a resolution of the Virginia Assembly offering to cede to Congress, for the benefit of all the states, the whole territory north of the Ohio River—the Northwest Territory. This offer has often been described as a free and generous one. In fact, it was forced from Virginia by her sheer necessities. In imminent danger of subjugation by two victorious British armies, sorely needing help and earnestly pleading for it from the northern states, she was in no condition to carry on a political fight with them in Congress for her western lands. It was to conciliate them, and only when Arnold was almost within gunshot of Richmond, when all was confusion there and the public officials about to flee, that the Assembly made this offer of cession.

The baneful result of the offer to the western people lay in the fact that henceforth the government of Virginia lost nearly all interest in carrying on the western war to win, or even to hold, the territory north of the Ohio; for if the territory was not to be hers, why should she alone bear the burden of fighting for it?³ Eastern Virginians generally could see no reason why she should do so; but without the state's active aid against the enemy, the plight of the Kentucky people was made a dreadful one.

While General Clark was in Eastern Virginia, Captain Shannon, the "Conductor-General" of the Illinois Regiment, wrote him (January 22, 1781):

"It is reduced to a certainty that the English is determined to visit the Falls of Ohio early in the Spring—you know when you left us if the enemy had approached our situation would have been desperate; and you may rely on it that we get weaker every day—not one stroke towards fortifying the post since your departure . . . It appears as if the inhabitants here and on Beargrass, if assistance do not come early in the spring, would entirely move off. . . . There is not sufficient soldiers here at present to furnish assistance in cutting and securing beef, without speaking of the necessary guards for wagons for hauling corn, tar, &c."⁴

³ She even refused to renew her laws for the government of Illinois County—a dreadful wrong to her French citizens there. See author's

George Rogers Clark, p. 255.

⁴ *Shannon's Letter Book*, Virginia State Library.

The few horses that had not been run off by the Indians had to be kept inside the stations and fed from the scanty supply of corn needed by the troops and people themselves. In March, 1781, the Indians raided Jefferson County and killed Col. William Lynn, Captains Tipton and Chapman, and several men from Captain Whittaker's party, who were pursuing them. In April settlers retreating to the Falls from a station near the future site of Shelbyville were attacked and defeated. On the 16th Colonel Floyd wrote the governor:

"We are all obliged to live in our forts in this country, and notwithstanding all the caution we use, forty seven . . . have been killed or taken prisoners by the savages, besides a number wounded, since January. . . . Whole families are destroyed without regard to age or sex; infants are torn from their mothers arms and their brains dashed out against trees. . . . Not a week passes, and some weeks scarcely a day, without some of our distressed inhabitants feeling the fatal effects of the infernal rage and fury of these execrable hell-hounds. . . . A large proportion of the inhabitants are helpless indigent widows and orphans, who have lost their husbands and fathers by savage hands and [are] left among strangers, without the most common necessities of life. . . . The confidence of the people in General Clark's vigilance, his enterprising spirit, and other military virtues, together with their inability to move, have barely been sufficient to keep this country from being left entirely desolate."⁵

During General Clark's absence, Major Slaughter, who was at the Falls with a company of troops from Virginia, assumed command of the few remaining men there of the Illinois Regiment. He was soon at cross-purposes with the inhabitants and with Captain Shannon.⁶ On May 8th Shannon, who was busy building boats and getting supplies for the Detroit Expedition, wrote him that "as times are so dangerous, I am under the Necessity of applying to you for a Guard, consisting of one Sergeant and ten Men, while in the woods getting Stocks for Plank, &ca."⁷

⁵ *Virginia Calendar State Papers*, II:48.

⁶ Slaughter made charges against Shannon which a court-martial found false and thereupon he apolo-

gized to Shannon handsomely. (*Illinois Historical Collections*, VIII: 524.)

⁷ *Virginia State Library, Illinois Accounts*, May 8, 1781.

The guard was not furnished and Shannon indignantly wrote Slaughter again:

"I am much surprised to hear that the Men employed to build the State Boats were yesterday defeated and drove from Business, and that for want of sufficient Guard. . . . If they are not furnished with a Sergeant & twelve men, properly armed to attend them late and early while in the Woods—you may depend on their being discharged."⁸

Shannon wrote General Clark that salt was the "only Article here that can be purchased on the Credit of the State," and that the price was "five or six hundred Dollars Pr Bushell."⁹ By mid-summer the distress for necessities was so great that Slaughter wrote the governor, August 9th:

"The situation of my little Corps at this place at present is truly deplorable; destitute of clothing, victuals & money. . . . Unless unexpected & immediate supplies of clothing & provisions are obtain'd, I shall evacuate this Post."¹⁰

At Fort Jefferson sheer starvation forced the garrison and inhabitants to abandon the post. Some went in small boats down the Mississippi; the rest, after sinking their cannon in the river, were taken by Colonel Montgomery up the Ohio to the Falls, where he took command and on August 10th wrote the governor:

"After a dangerous and disagreeable voyage up the Mississippi, I arrived at Fort Jefferson on the 1st of May last, when I found the Troops in a very low and Starving Condition, nor was there any goods or any Property wherewith to purchase. From the Illinois nothing could be expected, the credit of the State being long since lost there & no supplies coming from this place, occasioned an Evacuation of that Post, which for want of Provisions, took place on the 8th June last.

"Since my arrival here, I find things in the same Condition—not a mouthful for the troops to eat, nor money to purchase it with; and . . . the credit of the government is worn bare. The counties of Lincoln and Fayette particularly, tho able to supply us, refuse granting any relief without the cash to purchase it on the spot. . . . I am constrained to billet the troops through the country in small parties, for want of necessities, except a small guard to keep the garri-

⁸ Shannon's Order Book, Virginia State Library. (*Illinois Accounts*.) ¹⁰ *Virginia Calendar State Papers*, II:306.

⁹ *Id.*, May 21, 1781.

son; so that unless supplies soon arrive I fear the consequences will be fatal."¹¹

What Montgomery here says, of Lincoln and Fayette counties refusing to relieve the distress at the Falls, suggests that a most unfortunate enmity had arisen in those counties against the people of Jefferson and the state troops at the Falls. This ill-feeling brought sad results to all, but it was almost inevitable. In all three counties poverty, bad money and the seditious scheming of the land company emissaries brought demoralization to government and people alike. Military exactions of service and supplies, however necessary for the common defense, intensified the general discontent, and were evaded and often resisted by men who could barely make a support for themselves and families. Service in the county militia was commonly resented, although, since it was usually required only for brief periods and on special occasions, the militiaman was left most of his time for earning a living. The impressment of supplies for the militia often provoked serious opposition, for few people were willing to give up their horses, cattle, wagons, or scant food supplies in exchange for worthless bills on the bankrupt state government.

But, if calls for militia service or militia supplies were resented, far more bitter was the opposition in all the counties to calls to serve with or supply the state troops of the Illinois Regiment at the Falls. Orders for both were made under authority from the governor, but although that post was plainly of greatest strategic importance in the defense of all the counties against their most numerous and dangerous enemies—the northwestern Indians—because the regiment consisted of state troops, the Kentucky people thought the state should support them. To be required to serve, or part with their property, to maintain the Falls post they considered an outrageous imposition. In vain they were told that Governor Harrison said the state treasury was empty; in vain it was pointed out that, without the protection of the garrison at the Falls, the Illinois towns and Vincennes would be retaken by the British, and the northwestern Indians left free to overrun all the Kentucky counties. Soon the inhabitants and

¹¹ *Virginia Calendar State Papers*, II:313.

the state troops looked upon one another as enemies rather than friends. For sheer lack of food the troops had to be billeted in the neighborhood upon the impoverished and unwilling householders of Jefferson; and serious clashes were avoided with difficulty.

The Fayette and Lincoln militia would not serve to strengthen the Falls garrison; nor would the people of those counties furnish needed supplies for it. They thought the garrison gave them no protection against the Shawnees who lived immediately north of them across the Ohio and whom they erroneously considered their most dangerous enemies. Those Indians had indeed been their worst enemies during the infancy of the Kentucky settlements, but never after the last siege of Boonesboro in 1778. Thereafter there was never a formidable Shawnee invasion, although there were several destructive ones by warriors from tribes northwest of them—Lake Indians, Miamis, etc. These northwestern Indians nearly always came through the Shawnee country, however, and therefore were believed by the Fayette and Lincoln people to be Shawnees.

In September, 1781, upon General Clark's return to the Falls with the few and discontented troops he had gathered in the Pittsburgh country, he called a council of the militia officers of the three Kentucky counties to determine upon a plan of defense. Numerous bands of Indians were infesting various parts of the district and the need was both great and evident for an offensive expedition against them. All the officers united in appealing to the state to order an expedition against Detroit, and all but the county lieutenants of Fayette and Lincoln, Colonels Todd and Logan, favored one against the northwestern Indians on the Wabash. Todd and Logan opposed the expedition and recommended, instead, the building of a fort at the mouth of the Kentucky for the special protection of their counties from the Shawnees. They wished the fort to be built and garrisoned, however, by the state troops at the Falls, which was impossible, because they were so few and needy.

Todd, who had little aptitude for military affairs, wrote Governor Harrison a long letter contending that the Falls fort, because so far down the Ohio, gave no protection to his county; and that, if only one fort could be maintained on that river, it should

be at the mouth of the Kentucky, and the Falls fort abandoned.¹² He strongly recommended, however, the building of *three* new forts—one there, another at the mouth of the Licking (opposite the present site of Cincinnati) and a third some seventy miles higher up the Ohio at the mouth of Limestone Creek, where Maysville now stands. Colonel Logan, who was an assembly delegate from Kentucky, doubtless supported Todd's recommendation, and the Assembly ordered the three new forts built; but it furnished neither men nor money for the purpose. Governor Harrison directed General Clark to build them, but the order was impossible of execution. Although the governor and Assembly knew this, they would not, or could not, supply the necessary means, nor would the Kentucky militia serve in the building.

The truth was, the state government was not only burdened with debt, but was no longer willing to spend even the small part of its revenues required for defending Kentucky, because it seemed about to be appropriated by Congress. Virginia's offer to cede the territory north of the Ohio had not been accepted, for the Indiana and Vandalia companies had no interest in that region, and influenced Congress to refuse the offer unless it was made to embrace also West Virginia and Eastern Kentucky. The northern states generally joined them and Maryland in demanding that Congress appropriate the whole trans-Allegheny region under the pretended cession from New York.

With the surrender of Cornwallis at Yorktown (October, 1781) the war virtually ended for the people east of the Alleghenies, for by that time Great Britain was financially exhausted and unable to carry it on there; but in the West the war was very far from being over. There the Indians, fearing their lands would be taken from them when deserted by their British allies, became much more aggressive.

The people of Kentucky believed that as citizens of Virginia they had a right to the state's protection. They knew a defensive war against Indians could only be a losing one, and that protection could be effectively given only by offensive expeditions. Time and again, therefore, their military leaders appealed to the state government to order and support one against Detroit, or at least

¹² This was Fort Nelson on the river bank between the present 7th and 8th streets, and was built in

1781 in lieu of the old fort farther down, which was then abandoned.

against the northwestern Indians; but Governor Harrison and the Assembly refused to do so because of the expense. They even forbade the Kentuckians to undertake an expedition themselves, notwithstanding the evident and pressing need for one.

However natural, this attitude of the state government was plainly indefensible. "Virginia still claimed they were her citizens and claimed their country. The war was her war—not theirs only; and the duty to serve in it and furnish means to carry it on was no more the burden of her western than of her eastern citizens. Yet when her western people implored help they were told there was no money in the state treasury. All through history, however, states without money in their treasuries have managed to carry on wars by impressing the properties of their citizens; and this the western people thought should have been done in the eastern counties. True, many there were in want and rags, but others had considerable means and some even wealth that could have been levied on to equip and support the five or six hundred needed troops. The occasion plainly called for earnest appeals by Governor Harrison and the Assembly for voluntary contributions and service and for extreme measures of taxation; but no such appeals were made and no such measures taken.

"The fault, however, was that of the state government rather than of its eastern people, whose psychology must be allowed for, as well as their distress. They were simply too harassed by their own serious troubles to realize the far more dreadful straits of their distant kinsmen, or their own duty to make greater sacrifice to relieve them. It would be most unjust to assume that they were aware of both, but remained callously unconcerned. On the contrary, had their sympathy been strongly appealed to, and their duty to serve and contribute of their means been clearly presented to them, the state government could no doubt have secured the needed supplies and men, and also gained public support for necessary additional taxation. Indeed, the state treasury undoubtedly received from taxes many times more than would have sufficed to relieve the western situation, but expended its funds for other and far less imperative purposes."¹³

¹³ Author's *George Rogers Clark*,
p. 190., (Houghton Mifflin Co.)

CHAPTER XX

VIRGINIA'S JURISDICTION AGAIN ASSAILED

In 1782 the great scheme of the land companies was culminating, both in Congress and in the West. Evidently in preparation for later proceedings in Congress, the new-state conspirators in Kentucky were encouraged to hold meetings and petition Congress to claim the whole western country. Two of the leading conspirators were Col. Arthur Campbell and Col. John Donelson. Not content with operating in their own counties, they sought to detach Kentucky from Virginia and have Congress assume jurisdiction over it. Prompted by Campbell, Donelson and other malcontents even held a more or less public meeting at Harrodsburg to petition Congress to do so and "to set aside the rights to land in this country under the land laws of Virginia." Donelson presided.

Up to this time the new-state conspiracy had been carried on secretly. General Clark and other loyal officers of Virginia had been doing all they could to suppress it, and one of them, Major McGarry, took troops and broke up the Harrodsburg meeting. This, however, did not prevent the conspirators from sending their numerous signed petitions to Congress. Donelson wrote Campbell that, in compliance with the latter's suggestion, the people had appointed selectmen to attend the meeting, but that

"when they met they were preven[te]d from doing anything in the Business by a Riot Rais^d for that purpose. However two days after the Commsⁿ met again and Done up Such petitions as you may see in the hands of Mr Rees who, we have Dispatch^d to Phil^a. . . . The petition to Congress You will see in the hands of Mr Rees. One other we have Sent to the Genl Assembly of Virginia Requesting their Acqui[e]sance."¹

While these new-state troubles were breeding in Kentucky,

¹ *Draper MSS.*, 9 D D 34, holo- C C 40; Virginia State Library, B. graph; c. f. Allin to L. Todd, id. 16 998, l. f. K. P.

alarming and repeated reports were being received during the spring and early summer of 1782 of a powerful force of British and Indians being gathered at Detroit to destroy Fort Nelson at the Falls and then sweep the interior settlements. Unable to get aid either from the Virginia government, or from the militia or people of Fayette and Lincoln, for strengthening the Falls fort or building any of the three new forts, General Clark caused a large armed row galley to be constructed at the Falls to ply the Ohio along the northern border of Fayette, or be stationed at some strategic point there for the protection of the people of that county. The galley was built under great difficulties by militiamen of Jefferson and some of the state troops at the Falls. It was "seventy three feet keel, . . . to have forty six oars, one hundred and two men; One six, two fours and a two pounder . . . her proposed metal, . . . Gunnels play on hinges and raise her sides so high that she can lay within pistol shot of the shore without the least danger."² Because of its mobility, this galley, if properly manned, would no doubt have proven more effective in preventing Indian invasion of Fayette than any of the three new forts ordered for that purpose; but unfortunately few militiamen would serve on it. It should have been strong and swift enough to patrol the whole front of Fayette and deter, destroy or trap any considerable force of Indian invaders; but because it lacked oarsmen, it could only be taken to the mouth of the Licking. Stationed there, it fully answered the purpose of a fort, although deprived of its main merit—mobility.

Urgent and repeated appeals were sent by General Clark and others to Governor Harrison for assistance in repelling the impending British and Indian invasion, but in vain. Efforts to arouse the Kentucky people and militia to realize their danger were equally futile. Discord and indifference prevented coöperation against the common enemy. The new-state conspirators and land company emissaries were becoming busier and bolder in fomenting opposition to Virginia and resistance of military demands from her officers.

In Congress the promoters seemed about to win the great fortunes in West Virginia and Kentucky for which they had so

² *Virginia Calendar State Papers*, III:150, 207, 210, 214.

long been striving; the states north of the Potomac seemed nearer winning shares of the western charter territories of the southern states. For nearly a year the New York Legislature's illusory cession act had slept in the files of Congress; the instructions, prohibiting her delegates from ceding anything real, were still withheld—a profound secret; Virginia's offer to cede the region north of the Ohio remained unaccepted, because it did not include West Virginia and Kentucky, but required that they be guaranteed to her.³ Mr. Madison wrote from Congress:

“An agrarian law is as much coveted by the little members of the Union as it ever was by the indigent citizens of Rome. . . . The conditions annexed by Virginia to her territorial cession have furnished a committee of Congress with a handle for taking up questions of right, both with respect to the ceding states and the great land companies, which they have not before ventured to touch.”⁴

At last, on March 1st, 1781, the New York delegates executed and delivered to Congress their *deed* of pretended cession. It was quite as deceptively framed as the legislative act had been. It complied fully with their undisclosed instructions, for it conveyed no territory that New York ever owned. It did not even pretend to convey any lying southward of her southern boundary extended westward; and hence, even on its face, did not purport to convey West Virginia or Kentucky, which lay far southward of New York. In fact, it *conveyed* nothing.⁵ On the very day

³ Winsor in his excellent *Western Movement* (p. 199), repeats a baseless charge which was loudly made at the time by the land company promoters and their confederates, saying: “When, by implication, Virginia asked that the claims of New York, Massachusetts and Connecticut and that all claimants under native grants—both those of individuals and of the Indiana Company, should be disregarded, she arrogantly asked more than Congress could possibly accept.”

This stricture by the learned Bostonian would hardly have been made had he been more familiar with the attenuated nature of the New York, Massachusetts and Con-

necticut claims, and with the crooked course of “the land jobbers” and their sinister influence in the Continental Congress.

⁴ Hunt's *Writings of Madison*, I:160.

⁵ The deed was no more than a mere *quitclaim* which neither asserts nor implies a claim of title, but merely that the grantor renounces the assertion of any title that, peradventure, the grantor may possess. Furthermore, a competent court would no doubt have held the deed void for uncertainty; for it failed to give any intelligible description of the lands it pretended to cede, or any bounds whatever.

that this New York cession deed was delivered, Maryland (evidently satisfied that Congress would assert title under it to the western lands) ratified the Articles of Confederation, but with the announcement that she did not relinquish her claim to a full share of those lands.⁶ Congress then appointed a committee, made up of northern members hostile to Virginia,⁷ to consider and report upon the cession offers of that state and New York.

June 27th, 1781, it reported against accepting Virginia's offer; and (conveniently assuming that New York's cession would give Congress a valid title to the whole trans-Allegheny region!) recommended: *First*, that a new committee be appointed to consider

"the Western limits beyond which [the United States] will not extend their guarantee to particular states; and to *ascertain what vacant Territory belongs to the United States*, in common for the general benefit; *Second*, that, so soon as this is done, a committee be appointed to prepare a Plan for *dividing and settling* the said Territory and for *disposing* of it."⁸

To the Virginia delegates this report appeared most ominous for their state. As the confederation articles expressly required state boundary disputes to be decided by a small court of seven judges, and not by votes in Congress, they contended that the committee was recommending high-handed usurpation. Even mild Madison waxed indignant over what he considered the spoliation of Virginia being planned by her covetous opponents. Their attitude was such, he said, that "To contradict, even verbally, the misrepresentations and calumnies leveled against the claim of Virginia" was "hopeless."⁹

About this time, says William Wirt Henry, "The country learned with horror that the land companies had bribed some of the members of Congress by giving them stock in their enterprises."¹⁰

The northern majority paid little attention to Virginia's protests; but, pursuing the course recommended in the report just

⁶ *Journal of Continental Congress*, XIX:138.

⁷ From New Hampshire, Massachusetts, New York, and New Jersey. Id. 213.

⁸ Id. 704, author's italics.

⁹ *Writings of Madison*, I:170-2.

¹⁰ *Life of Patrick Henry*, II:83, citing George Mason and Bland's letters.

cited, had Congress appoint (October 2, 1781) a committee which was plainly "packed" with members favoring the land companies,¹¹ and order it to report on the western claims of Virginia, New York, and the land companies. In vain Madison endeavored to arrest the report and force Congress either to concede, or openly deny, that it was "interdicted by the Confederation [Articles] from the cognizance of such claims."¹²

On November 3rd the packed committee filed its report; and it was certainly a most remarkable one. As William Wirt Henry said, had it been written by the agent of the Indiana Company it could not have been more completely in its interest.¹³ It denied Virginia's claim to territory west of the Alleghenies; recommended that her offer to cede the country north of the Ohio be refused; upheld the fictitious title of the Six Nation savages to the whole trans-Allegheny region; declared valid the claim to it set up for New York; recommended that Congress accept the pretended cession from that state; and, lastly, upheld the claim of the Indiana Company to "Indiana!"¹⁴

Ostensibly the committee's report rejected the claim of the Vandalia Company to all the rest of West Virginia and all Kentucky east of the Kentucky River, saying it would be "incompatible with the interests, government and policy of these United States to permit such immoderate and extravagant grants of land to be vested in individual citizens."

This language might have seemed to end the hopes of the Vandalia shareholders to vast fortunes in western lands; but the committee did not design disappointing them so, for the report went on to say:

"In order to do the strictest justice to such of the said Vandalia Company as are and shall remain citizens of these United States, the committee recommends payment to them of their full shares and proportions of all their purchase money, expenses and charges accrued on said lands, by dis-

¹¹ They were Jenefer (Maryland), Boudinot (New Jersey), Var-num (Rhode Island) and Livermore (New Hampshire). *Journal of Continental Congress*, XXI; see Madison to Jefferson, *Hunt's Writings of Madison*, I:163; to Randolph, *id.* 165.

¹² *Journal of Continental Congress*, XXI:1057.

¹³ *Life of Patrick Henry*, II:92.

¹⁴ *Journal of Continental Congress*; *Old Journal of Congress*, VII:263.

tinct and separate grants out of the Vandalia lands, to the full amount thereof!"

What enormous sums these grasping American promoters of the Vandalia Company would have claimed as "purchase money, expenses and charges" incurred during the many years they had been engaged in furthering their scheme—first in America, then in London, and afterwards again in America—can only be surmised from the manner in which they had so long been engineering the gigantic and fraudulent scheme. Since no one could well dispute their figures, we may be sure their "distinct and separate grants out of the Vandalia lands" would have covered nearly or quite all that were of any value, both in West Virginia and Kentucky; and that the "full shares" of these American promoters would have been made, somehow, to cover those of their deserted British associates also.

When news of this committee report reached Virginia a flood of protests poured upon the Assembly from every part of the state. The indignation of her loyal citizens in Kentucky may be imagined. They had got their lands believing they were within the charter territory of Virginia; to make their homes on them they had risked and suffered the horrors of Indian warfare; for seven long years they had borne the brunt of the Revolutionary war west of the Alleghenies; they had taken the main part in winning and peopling that great region; and when they were told that, without their consent, the discredited Continental Congress was about to tear them from their mother state, govern them as territorial subjects, treat their Virginia land grants as void, and grant their lands—even their very homes—to the land jobbers of the Indiana and Vandalia companies, they were ready to fight!

To be free to do so, in case Kentucky was abandoned by Virginia, General Clark sent a letter to the governor resigning his command. He, Major Crittenden, Captains Helm, Williams, Bailey, Chapline, Brashear and George, Daniel Boone and over seventy others signed a memorial to the Virginia Assembly begging its protection and virtually announcing that they would not submit to the lawless appropriation of themselves and their lands by the Confederation and land jobbers. They said that they

"have been greatly alarmed at finding that Congress has not only refused the cession offered them [of the region northwest of the Ohio] . . . but a committee of that august body, appointed for the purpose, is prejudicing the public against the claim of Virginia and to prepare your memorialists for paying twenty pounds sterling for their own lands!

"Your memorialists do conceive, from the spirit of the Constitution of America, that if the country they possess does not of right belong to Virginia, the property of course must be vested in themselves, and that Congress has no right to any part thereof; and when your Memorialists, through your Honorable House, make a request to Congress for a new state and to be received into the Union, they are then, and not before, subjects of another state. . . .

"What your memorialists at present wish is Virginia's protection to them, as part of the state entitled to its privileges, or an information what they may expect. Justice is what they claim, and what the equity of their pretensions will allow them. They view themselves as Virginians, and they hope, as such, what is alluded to will not be given up without their consent. They also know that it is through them, and those they claim as citizens of their detached country, that the greatest part of the western waters [country] is not now in possession of their most inveterate enemies, and could easily prove the importance they have been to the United States."¹⁵

The Indiana and Vandalia promoters must have been highly elated over the packed committee's report, but to carry out its recommendations they would have found a difficult and extremely doubtful undertaking. Virginians holding their lands under Virginia's grants made the larger part of the Kentucky population, and by far the most militant part. Nearly all the leaders, civil and military, were Virginians; and, had their state abandoned them, Congress was in no condition to compel them to submit to its jurisdiction, for it was virtually bankrupt and nearly powerless.

Furthermore, they could easily have gained powerful aid from either Spain or Great Britain in resisting appropriation of themselves and their lands by Congress; for both those powers keenly desired to detach them from the Confederation. The British would gladly have called off their northwestern Indian

¹⁵ Virginia State Library, *Kentucky Petitions*, B. 328, l. f.

allies from attacking Kentucky and sent them instead against the frontiers of Pennsylvania and New York and the inner frontiers of Virginia. To secure safety the Kentuckians only needed to remain neutral in the war; and the temptation to do this would have been almost irresistible if Congress had attempted to sever them and their lands from Virginia and their mother state had abandoned them.

An independent Kentucky, safe from British and Indian attacks, would not only have left the inner frontiers of the Atlantic states exposed to Indian warfare, but it would most likely have drained those states of great numbers of people; for many in the East were already anxious to escape from the warfare, poverty and nearly chaotic government there. All through the Revolution eastern leaders dreaded lest their people abandon their farms and shops to go west for rich and cheap lands.

Unknown to the Kentuckians, however, important events were happening in Congress to determine the issue of the great controversy over their country. The master wire-puller of the land companies, Samuel Wharton, had returned to America; and, on February 25, 1782, took his seat as a member of Congress from Delaware.¹⁶ Prompt action on the packed committee's report followed. Soon afterward the report was considered and a vote deferred until two days later. Then came a bombshell in the camp of the promoters and their confederates in Congress. Mr. Arthur Lee of Virginia, seconded by Mr. Bland, moved that the vote on the first resolution recommended by the committee

"Be postponed 'till Congress shall have determined on the following resolution: 'That previous to any determination, in Congress, relative to the cessions of western lands, the name of each member present be called over by the secretary; that on such call each member do declare upon his honour whether he is, or is not, personally interested, directly or indirectly, in the claims of any company or companies which have petitioned against the territorial rights of any one of the states by whom such cessions have been made; and that such declaration be entered on the Journal.' "

This motion evidently caused consternation amongst the backers of the land companies. It killed the committee report!

¹⁶ *Journal of Continental Congress*, XVII:184.

"The members were not willing to stand the searching inquisition of this motion. It was parried and the report of the committee postponed from time to time until May 6th, when it was postponed indefinitely."¹⁷ Time and again the Virginia delegates tried to get Congress to pass upon it; but they could never force the advocates of the crooked scheme to stand the honor test. In congressional politics the scheme was dead!

For fourteen years the rapacious, shrewd and unscrupulous promoters had pursued their course of corruption only at the end to reap nothing. They had sown discord, east and west. During six years of desperate war they had prevented any union of the states and nearly caused the loss of the struggle for American independence. They opposed and nearly defeated the creation of the county of Kentucky—the first great and essential step in the winning of the West. They obstructed and almost blocked Virginia's efforts to drive and keep the British from the region north of the Ohio. They opposed and nearly prevented Clark's expedition against Kaskaskia, because it was Virginian. For the four troublous years after Hamilton's surrender, when Kentucky became populous and should have enjoyed comparative peace, they fomented such disaffection and discord there as to render the distressed people almost defenseless and subjected them to dreadful Indian warfare. But, heartless and dangerous as the great land grabbing scheme was, it saved the embryonic nation which it had so nearly destroyed; for it forced Virginia's cession of the Northwest Territory, which, as Fiske says, was "the cement of the Union,"¹⁸ and made possible the adoption of the Federal Constitution and the solvency and present greatness of the United States.

The fundamental importance of the great land controversy in Kentucky's history, the writer hopes, has now been made sufficiently plain to warrant the attention it has received in these pages, especially as the subject has never been explained in any history of the state. Indeed, the tremendous *national* significance of the Indiana-Vandalia companies has been little appreciated and never more than superficially treated in any history of the

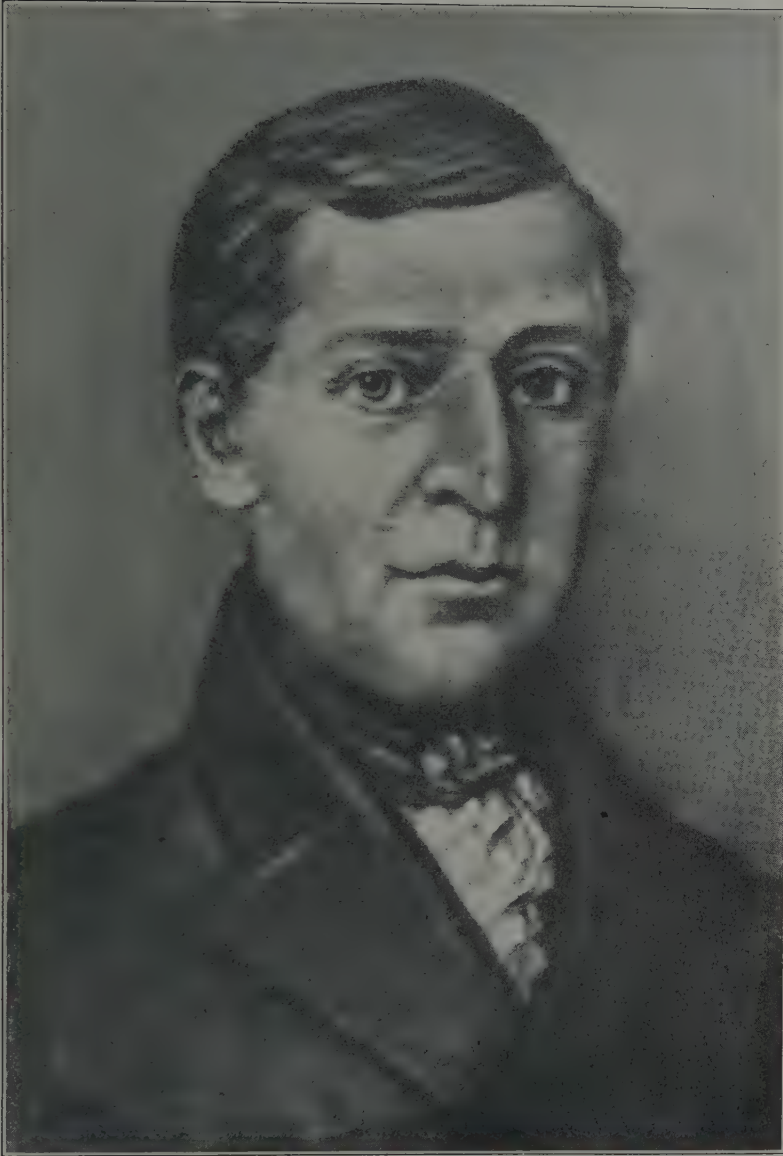
¹⁷ *Life of Patrick Henry* (William Wirt Henry), II:92, etc; and *Journal of Continental Congress*, XVII: 808, et seq.

¹⁸ Fiske's *Critical Period of American History*.

United States. They are rarely even mentioned. The western land controversy in Congress is usually treated as if it had been only one between the states; whereas pre-eminently the main factors in the conflict were really these land companies. But for their persistent activities the confederation articles would almost certainly have been adopted after Delaware's ratification and Virginia's offer to cede all her western charter territory save West Virginia and Kentucky.

The two histories which treat the western land controversy most fully are Hinsdale's *Old Northwest* and Winsor's *Western Movement*—both valuable and generally reliable works; but neither of these writers seems to have traced the operations of the land company promoters in America and London before the Revolution, although they throw a flood of light on their later ones in Congress and the West; nor does either seem to have suspected the later trickeries and misrepresentations by which the promoters sought to bolster their claims in Congress. Neither mentions Lee's motion to require members, before voting on the packed committee's report approving those claims, to stand and declare on their honor that they were not interested in them. Winsor innocently says only that "The report as a whole was never acted upon since it was seen that the cession movement could get on better without such friction" as would ensue from an attempt to adopt it!

Both these excellent writers think the claim set up for New York was a "flimsy" one, although, says Winsor, "good enough to give away as a precedent;" but neither of them seems to have known of the deceptive way it was procured and used.



(Filson Club Collection)

JOHN FLOYD
(1750-1783)

CHAPTER XXI

NEGLECT BRINGS DISASTER: RETALIATION

It was during this time of conspiracy and bitter discord in Kentucky—when Virginia's loyal citizens there were in doubt whether they could hold their lands against the land companies and Congress, and whether they would remain citizens of their state or would be forced to become territorial subjects of the Confederation, that news came of the approach of the great British and Indian expedition under Captains Caldwell and McKee. The people were fully warned of the impending danger, and active coöperation for the general defense was plainly imperative, but there was none. The unruly and almost wholly unorganized militia of the several counties was both unwilling and unfit for serious warfare. In Jefferson, Colonel Floyd, by great exertions and his popularity, did indeed succeed in keeping out scouts to give timely notice of approaching enemies, but in Fayette, Colonel Todd seems to have neglected or been unable to do this.

Fortunately, General Clark, with the aid of his French friends and some friendly Indians north of the Ohio, had caused reports to be widely circulated through the enemy's country that he was about to march with a powerful army against Detroit. The fiction had extraordinary effect. It so confused the British and alarmed the Indians that it delayed their attack, as one British officer at Detroit wrote, to "wait to see the event of Mr. Clark's expedition; should it be intended against that post."¹

Several advance Indian bands raided Fayette in the spring, and one defeated some twenty-five men there under Captain Estill, and killed him and a number of others. By midsummer Caldwell and McKee gathered in the northern lake region and carried to the Shawnee country what McKee said was "the greatest body of Indians that have been assembled in this quarter

¹ *Michigan Pioneer Collections*,
XX:29.

since the commencement of the war, and perhaps never may be in higher spirits to attack the enemy."² Thence Indian scouts were sent toward the Falls to learn of Clark's movements. They reported that his army was "assembled to come this way," said McKee, "and in a few days would be on their march to the Shawnee towns."³ (See map, page 37.) Other Indians a few days later reported that they "had discovered the enemy on their march below Big Bone Lick," by the Ohio, a short distance below the mouth of the Licking. Still other scouts reported "that three days ago, upon crossing the Ohio near the mouth of the Big Miamis River [opposite the Licking], they discovered a body of the enemy whom they suppose to be an advance party."⁴

To oppose Clark's imaginary army Caldwell and McKee sent urgent calls for more Indians to join them, and sent out other scouts who reported, said McKee:

"they had viewed the Enemy from the top of the Hill near the mouth of the Miamis, three days ago, and that they had two large boats in their front, from which two cannon were fired every evening upon coming to their camping ground, and that they also saw a number of Indians with them. They say they are the most formidable Army that has yet come into their Country, and from their appearance must intend more than attacking their Villages. The lowness of the Miami will retard their progress so much that we are in hopes we shall have time to collect ourselves. July 23d, Captain Caldwell is Just come up with the Lake Indians, but is apprehensive that the reinforcement with Captain Brandt will not arrive in time. However, whatever force we are able to collect, we shall endeavor to keep between them and Detroit, which must undoubtedly be their object from all accounts."⁵

These reports, said McKee, "notwithstanding all our endeavors to keep them [the assembled Indians] together, occasioned them to disperse."⁶ They would not go against Clark, whom they regarded as an almost invincible warrior. McKee

² Id. XX:49.

⁵ Id. XX:33.

³ Id. 32, also 4, 13, 27.

⁶ Id.

⁴ *Michigan Pioneer Collections*,
XX:32, 33.

said, however, that "upwards of three hundred Hurons and Lake Indians" advanced with him and Caldwell to the Ohio. Here, said McKee:

"we remained,—still in uncertainty with Respect to the Enemy's motions,—and it was thought best from hence to send scouts to the Falls, and that the main body should advance into the enemy's country and endeavor to lead out a party from some of their forts, by which we might be able to gain some certain intelligence. Accordingly we crossed the Ohio and arrived [August 16th] at one of the Enemy's Settlements call'd Bryant's Station."⁷

This station was about five miles northeast from Lexington. Although marching over a well-known route, they had been allowed to traverse nearly the whole width of Fayette County without being discovered. At Bryant's they set fire to some out-houses and continued their attack until the 17th, when they moved off in a leisurely way, "evidently desirous of being pursued, as they left a plain trail behind them."⁸ When about thirty miles northeast of Bryant's, they recrossed the Licking at the upper Blue Licks, and halted on an elevated, U-shaped point of land nearly surrounded by a sharp bend or loop of the river. Here they formed an east-and-west battle line extending across the neck of land to the river on each flank, and also secreted an enfiling detachment of warriors in a depression extending southwardly for some distance in front of their left flank.

News of the attack at Bryant's spread rapidly. Colonel Todd hastily gathered fifty-two Fayette men and, being joined by 130 more under Colonel Trigg of Lincoln, on the 18th pursued the enemy, without knowledge of their number. Major Madison, of Trigg's command, described what followed:

"18th Augst Col. Todd and Trigg arriv^d at Briant's Station, about ten o'clock, when they were informed by Captⁿ Craig that the Enemy had Retreated about Ten in the morning; that their numbers was inconsiderable; that he was sure they might be overtaken and . . . defeated by the party present, to wit 182 men. The pursuit immediately took place,

⁷ Id. As to name of the station, see *Register Kentucky State Historical Society*, Vol. 24, No. 70, p. 47, January, 1926.

⁸ *Michigan Pioneer Collections*, XX:49.

following the Indian trail to Riddles, near ——— Miles, where it was discovered that the Enemy was far superior to the number supposed, and, by information of Capt. Hay to Col. Boon, a large party of the Enemy was also discovered at the upper Blue Licks, 8 miles from the Lower. The principal officers appeared to be confused in their council,—each afraid to speak Candidly for fear of being suspected of Timidity, but the whole moved forward, apparently without order. Orders then issued for the whole, when an attack should Commence, to ride in among the Enemy before a gun was fired. Continuing the Route untill near day, then halted untill sun-up on the 19th, when four miles from the Lick. Then, marching in three parallel lines [the right led by Trigg, center by McGarry and left by Boone] to the heights opposite the Blue Licks, where, on discovering part of the Enemy, the whole appeared to be in the utmost confusion, each viewing the other with that consternation foreboding destruction. No Genl order given after this period. The spies venturing across the River Reconoitering the Lick, found the Enemy that was discovered, had gone on. Maj Mogary [McGarry] crossed with his division, after which Colo Trigg with his, and Col. Boon following.

“Raising the heights on the opposite shore, the spies still advancing returned in full speed, [and] informed the party that the Enemy was but a small distance. The cry for action was the[n] given. The whole Moved on in the order they then were, without ever forming,—the front getting Repulsed before the Rear got near the Enemy. A gen^l Rout took place. Having an unguarded ford to Retreat through, the Victory became compleat, on the side of the Enemy.”⁹

Trigg’s men had been subjected to a withering fire from the secreted Indian flanking detachment, and being thrown in confusion on the center, caused the rout.

Soon after the disaster Colonel Todd’s brother, Levi, who was a participant, wrote:

“Crossing the river an action immediately commenced, and in five minutes a Total Rout on our side. Fifty of the Lincoln men and 16 of the Fayette Troops fell including Colonels John Todd and Trigg, two majors and four captains.”¹⁰

⁹ *Draper MSS.*, 52 J 35-7.

¹⁰ *Draper MSS.*, 53 J 35; Levi Todd to Robert Todd, Aug. 26, 1782, *Virginia Calendar State Papers*,

III:333, and to governor, Sept. 11, 1783, id. 300; and Boone’s Account, id. 275.

It was the most disastrous defeat during the entire western war. Such a headlong pursuit of an enemy of unknown strength, by a sadly unorganized force, and an attack so reckless and disorderly upon a strong and skillfully placed enemy, could hardly have ended otherwise than in the slaughter and rout that followed.

Underlying these immediate causes of the disaster, however, were the bitter dissension then prevailing amongst the people and the utter demoralization of the militia. One incident well illustrates this. Immediately after the attack at Bryant's, Col. Levi Todd sent a letter asking Colonel Trigg to bring troops "quick as possible to Lexington." This Trigg did; but he first sent the letter, post-haste, to Colonel Logan, with request to raise additional men. Logan hurriedly gathered 154, and at noon on the 19th—the very time when the Indians were chasing and scalping Colonel Todd's men—reached Lexington, "finding the people there quite unconcerned and at their common diversions! . . . [He] spent some time shewing them their Error, to little purpose, himself being weakened by the conversation of the Lexington and Bryant Inhabitants ridiculing the pursuit, saying there was a sufficiency of men gone with Colonel Todd, which caused many of the volunteers to delay."¹¹

Following fast upon the news of the terrible defeat, the people of Fayette and Lincoln heard various bitter and conflicting charges putting the blame for it upon the several commanders. In a time of so much dissension and back-biting this might have been foreseen. In fact, militia officers and men alike were nearly all no doubt conscious that their own neglect of duty had contributed to the disaster and naturally were inclined to shift the blame upon others. Logan was charged with intentional delay in going to the support of Todd and Trigg. Others attributed the defeat to the incompetence of Col. John Todd. He was also charged with purposely rushing in pursuit of the enemy without waiting for the reenforcement under Logan, to avoid surrendering command to Logan, the senior militia officer, and thus losing the opportunity to win for himself the glory of a victory. Another officer who was severely censured for the heedless attack, but vigorously denied it, was Major McGarry. His enemies charged that on arriving at the Blue Licks, the officers

¹¹ *Draper MSS.*, 52 J 35-7.

and men generally realized they confronted a foe far more formidable than they had thought, and hesitated to cross the river to attack them, but that McGarry called on all who were not cowards to follow him, dashed into the river and caused all to follow. Probably all these conflicting charges were groundless except that concerning Col. John Todd's military incapacity; and perhaps he was no less capable than others who blamed him. To exculpate themselves, some of them sought to shift the blame upon General Clark, by attributing the defeat to his failure to build the new forts on the Ohio. The utterly groundless nature of this charge appears fully elsewhere.¹²

People and militia alike were appalled by this disastrous result of their discord and neglect of duty. So great, indeed, was the general consternation and dread of the enemy that brave men feared Kentucky would be abandoned; and many urgent but futile appeals were sent to Governor Harrison for relief. After a time, however, panic subsided and a general demand arose, especially in Fayette and Lincoln, that General Clark lead a retaliatory expedition of volunteers against the Shawnees—and this, notwithstanding Governor Harrison had forbidden any such offensive. After two years of sulking and discord, militiamen came forward in large numbers. A thousand men—mostly furnishing their own horses—met at the mouth of the Licking, crossed the Ohio to the present site of Cincinnati, where a block-house was erected, and thence marched some hundred miles eastward against the Shawnee towns on the Scioto River.

General Clark's official report of the expedition was as follows:

"I imbrace the opertunity by Cap^{tn} Madison to inform you of our safe return from the Indian Cuntrey I left the Ohio the fourth with one Thousand and fifty men and surprised the principal Shawonee Town on the Eavening of the Tenth Inst amediately Detacking off Strong parties to different Quarters in a few Hours two thirds of their Towns was laid in ashes and everything they ware posses'd of destroy'd, except such articles most usefull to the Troops, the Enemy not having time to Secret any part of their Riches that was in ye Villages the British Trading post at the

¹² Author's *George Rogers Clark*, pp. 210-28, etc.

Portage on the Head of the Miami shared the same fate by Col^o Benj. Logan and a party one Hundred and fifty Horse where property to a great amount was burnt the Quantity of provisions destroyed far surpassed any Idea we had of their Stores of that kind the loss of the Enemy was Ten scalps Seven prisoners and two whites Retaken; ours one killed one wounded After laying part of four Days in their Towns, finding all attempts to bring them to a gen^l Action Fruitless, we retired the season being far advanced and the weather threatening, I could not [learn] by the prisoners that they had the least Idea of Gen^l Erwins [Irvine's] Intention of penetrating into the Cuntrey should he have given them another stroke at Sandusky it will more than double the advantage already gained.

"We might probably have got many more scalps and prisoners could we have timely known whether or not we ware discovered, which we took for granted untill geting within three miles Some circumstances happened caused us to think otherways, though uncertain Col^o Floyd was ordered to advance with three Hundred men and bring on an action or attack the Town, Maj^r Walls with a party of Horse being previously sent on a different Rout as a party of observation although Col Floyds motion was so quick that he got to the Town but a few minutes later than those who discovered his approach, the Inhabitants had Suffitient notice to effect their escape, by the allarm cry that was given on the first discovery and to be heard at a great distance and repeated by all that hear it so that he only fell in with the Rear of them I must beg leave to Recomment to your Excellency the Militia of Kentucky who did themselves Honour on this occasion especially their desire of saving prisoners

I am yr Obt Servt

G R Clark

Governor Harrison."¹³

Clark's plans for the march and battle are still preserved¹⁴ and show the method he used for scouting, flanking and making roadways through the forest for an army with light artillery and baggage. So far as the author knows, it is the only extant written plan of the kind used in the wilderness warfare of that period.

This attack upon the Shawnees was the last battle with the Indians in the West during the Revolutionary war. It not only

¹³ *Illinois Historical Collections*, XIX:157-8.

¹⁴ *Draper MSS.*, 63 J 121-128; *Illinois Historical Collections* XIX: 150-153.

suppressed the Shawnees, but so greatly impressed the other Indian tribes of the Northwest that they were much quieted, and refrained from hostilities until the end of the Revolution and for some time afterward.

In the late fall of 1782 and the first half of the next year, a board of four commissioners were in Kentucky to take evidence and make a report on western military and other accounts. They were appointed under an act of the Virginia Assembly passed June 21, 1781.¹⁵ As this act and the proceedings of the commissioners deeply concerned a large part of the people of Kentucky, and greatly influenced their later attitude toward the state government of Virginia, it will be well to learn the motive which prompted the passage of the act, what the commission accomplished, and the effects of its findings.

The passage of the act was hailed with delight by the state's western creditors generally; for their experience in trying to have their claims settled and paid at the state capitol had been a sad one. Many scores of them had made long dangerous journeys to Richmond and been delayed there for weeks and months trying to get their accounts adjusted, and meantime exhausting their scant means, only to find their journeys in vain. When, therefore, they learned that their claims would be passed upon by commissioners in Kentucky, they naturally expected prompt settlements and payments; but they were doomed to disappointment.

It will be remembered that Virginia's tentative offer to cede the territory north of the Ohio to the United States was conditioned on her being reimbursed by Congress for her expenses incurred in conquering the country. Both the state and Congress, however, were then on the verge of bankruptcy and neither was inclined to pay its debts. Fearing that if Congress accepted the conditional cession it would avoid reimbursing the state for these outlays, unless every item of them could be sustained by undeniable proofs, the western commissioners were instructed to require the production of original vouchers proving the claims presented to them. This was oftenest simply impossible, as the Assembly might well have foreseen. The accounts to be passed

¹⁵ *Virginia Calendar State Papers*, II:672; *Illinois Historical Collections*, XIX:293.

upon by the commissioners embraced untold thousands of items of outlays for soldiers' pay, provisions, guns, ammunition, clothing, horses, wagons, boats, labor for fort construction and repairs, Indian treaties, and for an almost infinite variety of other purposes. These outlays had necessarily been made in many places widely scattered over a vast wilderness, during years of desperate war, and by a great variety of men. Few of them knew anything of proper accounting, many more could hardly write or find paper whereon to write, and nearly all were often too much concerned with the imperative demands of war to think of securing vouchers. Very many were dead, and rarely indeed were their services or outlays for the state paid for to their widows and children.

It is a truth which will impress anyone familiar with the economic side of the Revolutionary war in the West, that—far more than the money or supplies furnished by the government of Virginia—it was the unpaid services and contributions of the Kentucky people, the officers and soldiers of the Illinois Regiment, and the French of Illinois which won our first "Great West" for the United States. The Continental Congress did little to extend the nation's territory west of the Alleghenies; in fact, it repeatedly and most seriously hampered the efforts of Virginia and her western people to do so.

The state's Kentucky creditors soon found their expectation of a speedy settlement of their claims disappointed; for the year 1781 and nearly all of 1782 passed before the commissioners appeared. Promptly after the act creating the board was passed by the Assembly, the governor appointed Cols. William Preston, William Christian, Samuel McDowell and Thomas Marshall as the commissioners; but Colonel Preston, who was in poor health, and Colonel Christian declined to serve, while Colonel Marshall delayed his appearance until late the next year.¹⁶ Meantime the

¹⁶ On November 17, 1781, Colonel Marshall, who had a military claim for some Kentucky land, wrote the governor that, not having received his certificates for the land "puts it out of my power to go out as soon as it is expected the Commissioners would meet. When I can do it with convenience, I shall go out on my

own business; that may probably be the ensuing Summer or Fall." (*Virginia Calendar State Papers*, I:578.)

The next fall he wrote saying: "let me know whether the other Commissioners are willing to go on the business or not, as I make no doubt but they informed your honorable Board with respect to that

governor appointed Col. William Fleming and Caleb Wallace to fill out the board; but it was not until November 1, 1782, that its first meeting was held at Harrodsburg.

Excepting Colonel Fleming, all of the commissioners became permanent residents of Kentucky and prominent in its political affairs for a score of years following.

The commissioners first met at Harrodsburg November 1, 1782, but the journal of their proceedings said:

"The Board then took it into consideration that as an Expedition is now carrying on against our Enemy Indians under General Clark, and most of the Claimants being absent, They could not proceed on business before the Troops returned.

"They therefore think proper to adjourn and do accordingly adjourn to meet at Lexington in Fayette County on Monday the Eleventh Inst."

From that time until April 14th, 1783, the commissioners carried on their investigations at sundry places in Kentucky and then adjourned to meet first at "Belle Mont," Colonel Fleming's home in Botetourt County, and later at Richmond, where after further proceedings they submitted their report to the governor. The journal of their proceedings has been published,¹⁷ but unfortunately most of the important depositions referred to in them have not been.

The conclusions of the commissioners on the claims submitted to them concerned deeply a great number of the men of Kentucky. Some had rendered years of hard military service to the state and had received only partial pay or none at all; others had furnished military supplies for which they had got nothing save worthless currency, and many not even that; others had become the state's guarantors on her unpaid supply bills, and been forced to pay them. The story of these claims makes one of the saddest chapters in Kentucky's history. There is no telling how many of the claimants, and the widows and children of such as were

matter. And also to let me know whether I could be supplied with hard money, Tobacco or Land warrants to bear my expenses while on the aforesaid business, or not, as I am told no paper money will pur-

chase nothing, & I know it to be the case in this part of the Country." (Id. II:549.)

¹⁷ *Illinois Historical Collections*, XIX:293, etc. Many important parts, however, are omitted.

dead, were reduced to want by their inability to produce original vouchers to prove their claims; or by the failure of the state to pay even such sums as the commissioners reported due them. There was hardly one of the outstanding patriots who did most to win and hold the great western country for us who was not thus financially crippled or ruined by his outlays for the state, or by his endorsement of its bills.

Some of the difficulties encountered by the western commissioners in carrying on their work appear in the interesting journal kept by Colonel Fleming, beginning when he and Mr. Wallace were approaching Harrodsburg. As the journal gives far the best and fullest account we have of the conditions then existing in Kentucky, and mentions many places and men not noted elsewhere, liberal extracts from it will be made here.

"Jan^y 4th Left Mrs Triggs in Comp^y with Mr Wallace Our serv^{ts} & baggage the day Cloudy with Snow and cold. went to Harrodsburg where we were to meet an escort of 25 men, ordered by the Commanding Officer of Lincoln County, and there Met Col. McDowel, the Secretary, Genl. Clark Mr Shannon, & some others waited for the escort meeting and one of the Serv^{ts} coming on who had gon by Col^o Bowmans to deliver some letters & 27/. for Jarvis Smith. From Bowmans he had taken the road to Henry Wilsons and detained us so long that we could not get farther than McAfees station which was deserted, the People having suffered greatly by the Indians last summer, having several people killed & the place attacked briskly by a large party of Indians we were Join'd by some of the escort & some who took the Opportunity of the Comp^y. going to Jefferson County.

"The 5th set out in the morning, very cloudy, cold, snowing & threatening a Storm—crossed Salt river, and Chaplains Fork, came on Simpsons run where, at a spring branch, Genl. Clark collected some petrified Cockles. it was so cold I could not light as the Comp^y rode briskly on those I got were the sea cockle, some wholly petrified, others half petrified, some single shells, others the whole cockle, some few of the Clam kind some shells seemed broke & dented in by the pressure of foreign bodies from above, and cemented by the petrifying matter, they seemed either to be real antedeluvians, or to have lain there since that part of this country was possessed by the see, as these were real marine shells, in four or five miles we got to Winslows station, which was entirely destroyed by the Enemy last summer about the time of Colo Todds defeat at Licking, excepting two dirty huts in

which we could not lodge, we therefore encamped in a field, the night very windy & cold &c

"Morning in five miles we reached Coxs Station 32 miles from Harrodsburg as the next day was Court day we determined to rest having business with the Militia Officers & Sheriffs of the County, we encamped in an Old field.

"7th a fine moderate day. Did our business with Colo Cox, Colo of the County, & gave the Sheriff summons for such Persons as we were informed could throw light on the mismanagement of the public stores &c. We ate with Colo. Cox and got some corn from him paying 1/ each pr meal & 3/ p bussl. for the corn. here Mr John May desired me to give him any warrants I had to locate & he would locate it for me having only a 400 acre w[arran]t I gave it him—spoke to Cap^t Oldham to survey James Speeds entry round Mans lick, sent up Arch^d Woods entry on the Beachfork to Thomas Woods at Wilsons by Boyd, and wrote him to get it surveyed as soon as possible, as I could not take any further trouble on me about it—wrote to Hub^t Taylor concerning my entries on Panther Creek, and that as he had kept the locations so long I expected would survey them, but if he declined to do it on Acc^t of any agreement with Mr Lee on Mr Masons acc^t. that I had wrote to Col: Abm. Bowman & Colo. Knox to shew the places, and to get one of his deputies to survey them. we were Joined by some more of Our Escort and now were an Ensign & Seventeen privates instead of 25

"8th set out for Louisville at the Falls of Ohio, a fine moderate day in 13 miles down the Creek, over some indifferent land, we left the Creek & went down Salt river 3 miles crossing at an Iland, where a boy had been taken & one kiled 2 days before I crossed at the same place in 79 — we left Salt river and Crossed Floyds Fork and Fern Creek, travelling through poor indiferent green briery land. Floyds Fork empties into Salt river, Fern Creek is lost in ponds & low flat lands back of the Falls—the land altered for the better as we came to the So. branch of Beargrass, we passed Popes or Sullivans upper Station near dusk and went to Colo^o Floyds 2¹/₂ miles, from thence going past the lower dutch station or Hoglans, where the greatest part of our escort stoped, having parted with G^l. Clark & the rest of the Comp^y at Popes, except Mr Daniel

"9th as Colo^o Floyd was not at home, we went to Louisville the 9th and discharged the Escort, drawing for them four days meat & flour & three buss^{ls}. corn, we found the place almost deserted of Inhabitants, the few left depending chiefly on the Garrison; neither being provided with Corn or Forriage, or other necessaries for the entertainment of travellers,

nor Cane near the place. We found this place by no means proper to do business in, the Garrison barely having a sufficiency of provisions, that is bad Flower & beef, not being able to purchase any on the Credit of the State, they are supplied with Whisky from Fort Pitt at 20/ or 24/ p Gallon, and at this time they had it in great plenty. In the Morning of the 10th the Afternoon three boats hove in sight with 2,000 Gall^s.

"one Family came down as settlers and several passengers, Maj^r. Harrods wife, the Maj^r having left the boats at Licking, Maj^r. & Cap^t Moseby, with others. Cap^t Phill: Barbour was here 4 or 5 days before our arrival. Col^o. Floyd came in the Forenoon, we determined to move our quarters, either to Cap^t Sullivans or Beargrass. at G^l Clarks desire we gave him our Oppinions in writing about the Posts he was ordered to erect at the mouth of Kentucky, Licking & Limestone in which we advised him to set about the Post at Kentucky directly, as only one could be undertaken at once.¹⁸

"in the Afternoon a signal was made on the other shore & through the Glass discovered five or Six men, boats were ordered to bring them over, but we could not stay to know who they were, it drawing toward Night, and being in haste to get from so disagreeable a place where many of the men &c. were in Liquor and our horses kept upon the Fort starving, spoke with M^{rs}. Harrod, who informed me in their way from Kentucky they had rested themselves a day & two nights at Bell Mont and that the family were all well, got to Col^o. Floyd's at Night—

"The 11th. finding no vacant house in that Station, went over to the upper Dutch Station, but did not succeed. On our return to Col^o Floyds we met with Cap^t Sullivan, who had been recommended to us, as a proper person to lodge with. G^l. Clark had spoke to him, and he expected the Commiss^{rs}., but he insisted on having 4/6 p day for each, boy as well as others, for victualling only, which would have swelled our Account so high and seemed so extravagant that we were determined to return to Lincoln; but by Col^o. Floyds influence we got a Cabbin in the Dutch Station, and was victualled by Handberry & got Corn from Col^o. Floyds; and

¹⁸ The Commissioners wrote Governor Harrison to the same effect, adding: "But it is our opinion that neither the state of your Treasury nor the state of this country, are equal to the expence of Money to support three additional posts, nor

to furnish men, if garrisoned by the militia." (Virginia State Library, "Illinois Papers," loose, R. 689). In fact, there was neither men nor money for building one fort and none was ever built.

the 13th being Monday moved there and proceeded to business — ye 14th. D^o.

"The 15th. being the day appointed for the return of the Summons to appear, we prepared to go to Louisville— when we reached Fort Nelson at the Falls we found no Evidences, and determined to return to N: Holland. I was informed that the Frenchmen that came over were from S^t Vincent & Kaskaskias, that one of them was clerk to the Court at Kaskias, M^r. Carbono. On my enquiring for them, G^l. Clark told me they were gon to Beargrass, that Affairs were in confusion in the Illinoise, that they were at a loss who were to direct them, that they came in about this, and were designed to go to Congress if the State of Virg^{ia}. had left them to themselves. I expressed my self several times to Gen^l. Clark that I wanted to see the Protherator, I could not help them, being they were sedulously kept out of the way, as the General hinted they came chiefly to him—¹⁹

"Cap^t George returned from the Chickasaws in the Evening, but did not give us any information of his transactions, but in general terms said all was well & that there was peace we expected to see or hear something more next day after he

¹⁹ The prothonotary, Carbonneaux, was only one of the Frenchmen from the Illinois here referred to. He went to Walker Daniel, the attorney-general, to present the distresses of the Illinois French through him to the governor of Virginia. See Daniel to the Commissioners (Feb. 3, 1783), narrating their interview. (*Virginia Calendar State Papers*, III:430-2.)

The following letter of the other Frenchmen to General Clark explains their delay in meeting the Commissioners:

"Fort Nelson 30th March 1783
May It Please Your Excellance.

"we heave flattered ourselves with the Hopes of heaving the honour of Seeing you at this Post but to our Great mortification we came too late notwithstanding that we have made all Possible Expedition Since we heard of the Commissioners Sitting to Settle the acots we heave

wrote to them by this Opertunity Praying Them to Detain a few days for us—we embrace the Same Opertunity and makes Bold to Trouble you, and Beggs The favour of you to Intercede for us with the Commissioners That they may Detain a few days longer than they Intended. we Start from this this day but our horses are so weake and much fateagued Together with the great fall of rain which will rais the waters all put together will oblige us to make but Little way, we therefore pray your Interest in our favour which will be Greatly Obliging us, who heave the Honour of being with Great Respect.

"Your Excellences Most Humble
& Obedient Servants

Fr Bosseron Rich: Winston
Fr Trottier J. M. P. LeGras
Lieut. Col^o. John Williams."

(*Illinois Historical Collections*, V:346.)

had rested but was disappointed. we lodged in the Fort, the night excessive cold—

“the 16th. we rode down to the lower end of the Falls, rode into Rock Island and several others, where we picked up many petrified substances. [Here follows a lengthy description of these curiosities, etc.] We returned to the Fort, after riding a considerable time in the river.

“I spoke to Capt George & told him the Commiss^{rs}. required of him an invoice of the goods he purchased from Capt Barbour. he informed me he had none & seemed to evade it, which made me suspect Barbour had been tampering with him before we left Fort Nelson near the Evening I went to see George & found him laid up in bed asleep, did not wake him. the French Men were kept out of sight—and we set out for New Holland—riding briskly my horse went below a beech tree, a limb of which hurt my left Eye & Ear which bled a little but smarted a good deal—when we got hom we understood that Col^o. Marshall had pass’d on his way to Looisville and found some Evidences attending that were summoned. as we advertized that we should do business at this Place when we were at Fort Nelson & G^l. Clark not being come, we could not proceed in their examination till all parties were present, which at farthest will be on Monday—

“The Inhabitants tan leather with beech tree bark, they likewise find sugar tree bark will answer [Here Colonel Fleming describes various trees.] The soil after crossing Salt River alters much from what it is in Lincoln & Fayette in general, being mixed with Sand and of a lighter colour, and much more inclined to Beech the few Inhabitants of Looisville having moved from their former situation higher up the river, and being supplied with water from the well in Fort Nelson, or making use of the river water, say they are much healthier, and not subject to the Phagadenic Cancerous ulcers and malignant fevers so general when I was there in 1779. the water then used was streams breaking out in the river banks fed from Ponds at some distance from the place, the water was highly impregnated with noxious particles, I imagine of the Arsenical kind, either before it left the pond or in its passage through the earth to the river—the Well in the Fort is supplied from the river, it is dug to the level of the bed of the Ohio, the water filters through 2 [illegible] of sand & Popler and rises & sinks in the well as the river rises & falls is — feet deep

“Gen^l Clark, Mr Daniel, Att^e, and a party came up from Fort Nelson, and got a house adjoining fitted up we drew

100^{lb} flower at the Fort & got corn for our horses from Col^o Floyd—

“Jan^y 20 Col^o. Marshall came from Lexington and joined us to proceed on Business—We entered on G^l. Clarks papers & books and tooke several depositions relative thereto.

“Some hunters that had gone out this morning from the Station returnd in the Night and reported that fifteen miles from this on the trace to Boons’ station they were fired on by five or six Indians and that one of their party was shot, McGlahan a young man that lived at this place—

“The 19th in the Evening I went over to Col^o Floyds to see his eldest son, in a worm fever, and had some talk with Jn^o May about my land—he said that he had spoke to Wilson, who married Wid^w Pendergrass, not to let Hendrix’s pre-emption interfere with my warr^t adjoining—returnd Monday morning—

“21 Enterd on Cap^t Georges & Barbours affair. George denied his having wrote to the Executive that the bill he drew was to be paid in paper curr^{cy}. and is to produce his letter tomorrow. several depositions were taken concerning his Conduct whilst at Fort Jefferson—

“a party went out to bury the dead, and returnd at night. Our Servants could only get 6 of our horses two of mine & one of Mr Wallace being missing—

“22^d tooke in depositions in various cases.

“23^d Cap^t George had not got his papers necessary to make us enter on C. Barbours business: he went to the Falls, we were employed in taking depositions &c. received a petition from the Reg^t. complaining that many of them had not got their bounty money, were in arrears for their pay & Clothing desired G^l Clark to direct the Cap^{ts} to make out lists of for deficiency of Clothing &c: we had information that two men were killed at the mouth of Salt River the 21st. continued to do business this week, .

“the 29th went over to Col^o Floyds, and out with Mr Jn^o May. continued to do Business, taking depositions and getting what light we could, in it, till Saturday,

“the 8th of Feb^y Col^o McDowel being determined to go up to Lincoln, I was very Anxious to get Cap^t Barbours affair determined before he went, as I perceived it went on but slowly. 10th. determined Cap^t Barbours affairs, and Settled it at 7588. 1. 6 $\frac{2}{3}$ first cost & allowing him 2 $\frac{1}{4}$ advance for the Cargo delivered at Fort Jefferson made in all 24661 [not plain] instead of 237325 Dollars claimed. Col^o McDowel went up to Lincoln went over to Col^o Floyds to get him to make a Survey at the mouth of Harrods Creek it rained

and we put it off till next day. we rode to the mouth of Goose Creek but could find no beginning of Col^o Byrds land. we then went up the river to Harrods Creek and begin from McKenzies corner running down the river it was then dark we lay on Goose Creek, next morning run McKenzies lower line and compleated the Settlement Survey of 400 acres; then run the 1000 acre warrant survey, which nearly Joind Spanglers line, Terrys Settlement & McKenzies lower line one continued Canebroke having finished in our return view'd my preemption of 1000 Acres Joining Col^o Christians land, with which I am well pleased—

“returned to New Holland, & went on with the Business, till Sunday morning.

“23 we were alarmed by the signal of two guns from the Falls, the usual signal being 1, 2 or 3 discharges from a Six pounder, according to alarm to be given in two hours after the report was heard an Express arrived with intelligence that the Enemy had taken all the horses at the Falls and swam them over the Ohio below the Falls, that L^t Clark & 25 men were dispatched across the river after them but found the Enemy had taken off the most of the horses from Popes Station—

“continued to do Business till the 28th we set on our return for Lincoln lodged in a Bottom which Old Mr Christian located, there is some good land & a pretty situation for building on, we could not cross Salt river lower on Account of the back water from the Ohio, cross'd a Creek at the head of the Bottom land, then Salt river, went to Colo Coxes, got corn for our horses, & crossd Chaplains fork lodged 10 miles from Cox^s.—Mar 1st.

“the next day cross'd the Beach Fork came to Harrodsburg, and in the Evening went to M^{rs} Triggs.

“Monday the 3^d. went to Harrodsburg to the Gen^l. Court which adjourned to the low Dutch Station,

“ye 4th & 5th at Court

“the 6th met the trustees for the semenary of learning at Mr Madisons, agreed on proposals to be laid before the Assembly returnd at Night to M^{rs}. Triggs and the 7th rode to Col^o Bowmans to do business.—Saturday night rode to Mrs Triggs.

“10 Went over to Lexington to finish the Business which we did on tuesday & Wednesday & designed to return on Thursday, on Wednesday Evening a man that had been at Harrodsburg came in he was fired on by Indians, half way from the river, his horse was wounded in the Neck, he made his escape a pa[rty] was ordered out on thursday, which

detained us that day, and we finished the whole business I paid Col^o. Marshall, for two surveys which Col^o. Boon is to make for me that the plott might not be detain'd in the Office

"Friday the 14th return'd 15th rode to Mr Bray & paid him his fees for Survey &c of the Settlement I purchas'd from Douglass, a warrant adjoining, & my preemption—we were informed that the Indians had taken the horses from Sullivans old station, & kild one Man & wounded another on Salt river after we left Beargrass met Col^o Floyd at Mr Mays & paid him for the corn I had for my horses, likewise I gave him three half Irona's for expence of them carriers &c in making my Surveys—I went to Mr James Speeds on Saturday evening & got an Obligation for his making me a right to the half of Six hundred acres, a location I gave him round Col^o Todds entry on Mans lick for allowing him to have half of my interest in the Agreement with Col^o. Todd returned on Sunday.—

"17. Went to Col^o. Bowmans and continued doing business till Saturday ye. 22. in the course of this week, I received letters from M^{rs}. Fleming &c: by Cap^t. Madison, we were informed one Wound^d & another kild on Rock castle, two men kild on Cumberland & Col^o Daniel Smith wounded, small parties of Indians were seen in different skirts of the Settlement, many chased by them. Colo Jn^o. Montgomery & two or three others were pursued coming from Beards town, and Alarms were given at some of the Stations—we fix'd on the 4th of Aprile to set out from Colo Logans, on our return & dispers'd Advertisements to that purpose—Got Col^o. Jn^o. Bowmans & Col^o. Ab^m. Bowmans depositions proving Jas. Ross Assignment of a Settlement & preemption Claim to 1400 Acres of land taken before Col^o. Benjⁿ. Logan—tooke in all the Claims but had not time to enter into a consideration of them, we broke up on Saturday night,

"on Sunday bundled up the papers all Saturday & Sunday it rain'd verry hard & raised Cane run so that my Serv^t could not Cross it with my horses, thursday Friday & Saturday it thundered, the thunder very loud & longer than I ever observed it before Monday continued to rain the rivers & runs exceeding high, which determin'd the Party to postpone setting out till Wednesday the 9th employed in getting my loads & Sadles &c: in order for the Journey

"received letters the 4th by express that Col^o. Legrass, Maj^r. Boseroon & Cap^t Trotier &c: were come to the Falls despatched the letters to Col^o McDowell to stop him, he being on his way to Col^o Logans,

"Saturday the 5th rode to Col^o Harrods, Sunday 6th returned to M^{rs} Triggs from Jn^o Smiths where I lodged verry ill, took a smart purge received a letter from Harrodsburg informing the Illinois Gentlemen were coming up, I wrote them to ride up to St Asaphs where we would take in their Claims we informed that [MS. faded] at Sturgus^s. station on Tuesday week, & on last Sunday two Indians were shot off a raft crossing Floyds Fork.

"Monday ye 7th being better, left M^{rs} Triggs in my way lodged at Sam^l Givens & on the 8th got to Col^o Logans where I met Col^o Legras Maj^r. Boseroon Cap^t Trotier & Maj^r. Williams & M^r. Henry from St Vincent were Joind by Col^o Marshall & M^r. Wallace in the Evening. here we were informed that a party of Indians had taken horses from a Station near Cox^s. were pursued overtaken at the Ohio & two of them killed. the horses except one recovered, a number of rafts discovered 15. at the mouth of Licking, fastned on the [MS. torn] a large trail discovered near Estills Station One Lane a few days [ago] kild above Boonsburg—the 10th. a man was kild on the road from Harodsbs^g to Coxes on the Beach [MS. torn] People were pursued and fired on in various quarters, horses taken from Gilberts Creek,

"On Saturday 7th Gen^l Clark & M^r Daniel came up, and informed us that Col^o Floyd, One of his Brothers & another person going to the Salt works, were fired on by Indians, Col^o. Floyd Mortally wounded, his Brothers horse shot under him & the third person shot dead; that Col^o Floyd with his Brothers Assistance got to the Salt works. Sunday had Acc^{ts}. from different parts of Country that the Enemy were taking off horses from Dicks river, Salt river &c: a person fired on near the Crab orchard—they seem to be spread over the Country—We are Just alarmed with the News that English^s. was Attacked and the Indians had broke to the Station & were tomahawking the Women, the men being drawn out in quest of Indians [a line and a half of the MS. illegible] was out with a party & discovered fires on Saturday night the Nobs of Dicks river, and had sent for a reinforcement, expresses were dispatched several ways Col^o Logan set off for Whitleys where the men were to rendezvouse in the evening they returned, & report that 6 Indians ran up to the house of Mich^l Woods and one going in, the door was shut. Old W^m Woods, a young woman & negro being in the house; that the Negro knocked the Indian down, whilst the young woman got an Ax, they got him dispatched, the Old woman kept the door shut, that before the Indians without could

break the door open, a man run up & firing on them wounded one, on which they ran off

"The French men from the Illinoise informd me that they were never troubled at St Vincents, or O'Post, either with Fleas or Rats, neither of which could live there, the latter may be occasioned by the water being impregnated by Arsnic—

"14 were informed that Col^o Floyd died on thursday—he was wounded on tuesday there was five in compy, one man shot dead Col^o Floyd wounded, all the horses shot except Col^o Floyds."

By Colonel Floyd's death Kentucky lost as noble a citizen as ever served it. No other was more patriotic; none more lovable; excepting General Clark alone, perhaps none more useful; and, excepting no one, none more high-minded and unselfish. Yet printed histories rarely more than mention him, and today he is almost unknown to the people of Virginia, where he was born, or of Kentucky, where he was an early explorer and settler, or even to the people who reside in what was once the extensive county of Jefferson, which he defended with untiring zeal until killed by savage enemies. No monument of stone or bronze commemorates his public services; his very grave is unmarked and unknown. His son and his grandson were governors of Virginia and are mentioned in nearly all our encyclopedias; but not their heroic ancestor.

No nation, or state, or community can afford to lose the priceless examples of its heroes; and because John Floyd was a real and forgotten hero of Kentucky, this brief reference to him is made.

Colonel Fleming's diary continues:

"15 This day had information that Old Mr Harbisons son-in-law was killed last night and [three lines of MS. faded] which they scolped [MS. faded] Mr Wallace was elected a delegate to Lincoln [MS. faded]

"16 Morning Settled with Col^o Logan began my journey home parted with Walker Daniel Att^o General for the District spoke to him to take [care of my] business in this Country which he promised to do, but gave him no money, having run short I told him I would give him a [three lines of MS. faded] Started early in the morning went the old trace and got alarmd by several fresh horse tracts before us,

turnd out at a Spring 12 miles from Ingliss' to let our horses feed, were joind by Jn^o & George May. Cap^t Brackenridge & two or three others, likewise a party from Paint Lick Creek

"17 Encamped on Seays Creek above the Fork several horse tracts on the Creek made a halt, till the rear came up Maj. Moseby lost his provision horses & provisions—at the Crossing of Rock Castle was a black mare which followed us. got to the Hazel patch, a fresh shod horse tract before us, went on to the N^o Branch of Laurel River, encamped we were detaind in the Morning, Jn^o May having lost four horses which had been frightened by Guns discharged which were out he pursued their tracts & got them in five weeks halted at Line Camp C—, and encamped 7 miles from the Flat Lick.

"20. were joind by several in the night got Letters from Government by John Reed, who was going to Kentucky, and informed me he was going to the Chickesaw nation—pasd Flat Lick—crossd Cumberland and rested after crossing the Foarding. 21. encamped on Yellow Creek, Crossd Cumberland Mountain—halted at Owins & encamped on trading Creek—22 Halted at Valley Station & Scots place 3 miles from thence."²⁰

While the commissioners of western military accounts were carrying on their investigations in Kentucky, Major George Walls sent the following letter with enclosures to General Clark, showing the weak and distressing condition of the State troops at the Falls:

"Fort Nelson Feb'y 21st 1783

"Sir.

"My duty requires me to lay before you, a State of this Garrison. The better to enable me to do so, I have taken the opinions of all the officers present at this post and the stores it contains is of too Great Importance to the State to be neglected; and without some speedy measures is taken for its Relief I dread the fatal consequences that may follow, but for your further information I lay before you exact Returns of all the Publick Stores at this Post, likewise the opinion of a Board of Officers, beging you to lay the same Before the Commissioners, for their consideration, or take such other measures as you may think Proper.

"The Contract I made with Majr. Williams in October

²⁰ *Fleming's Journal, Draper MSS.*

last, for a quantity of lead, I have no hopes of him being able to comply with, as I have been informed that Gentleman was plundered by the Indians on his way down the River—meat we have none, and the Season of the year and the weakness of the Garrison Renders it out of my Power to procure a sufficiency by the usual method of Hunting. Should you think proper to lay the State of the Garrison before the Commissioners, I should be glad to have the Honour of being myself at the Conference.”²¹

The report referred to by Major Walls read as follows:

“Present

Majr. George Walls

Capt: George

Lieut: Rich’d Clark

Capt: Bailey

Lieut: Williams

Capt: Chaplain

Lieut: W. Clark

“The Officers, after consultation & mature deliberation find that the Garrison in its present situation, is by no means equal to the importance of the place. That there is not above one third of the men necessary for its defence, and in a short time the unavoidable casualties will reduce the number to not more than twenty or thirty men. That there is not more than three months Flower in store, not one pound of meat, and no possibility of procuring a sufficiency by the usual methods of hunting. That there is not a sufficiency of lead to defend the Garrison twenty four hours in case of an assault. Some parts of the Fortifications going to wreck, and not men to make necessary repairs. Also that the men appear to be on the Verge of Mutiny in consequence of having served so long without receiving pay & other necessaries, and no prospect of an alteration for the better.

“These considerations and the daily expectation of the Enemy now in the opening of the Spring induce the officers to conceive, that without some speedy remedy is taken they may be reduced to the shocking alternative of evacuating the Post. And should either its fall or the Evacuation happen, for want of the necessary supplies they cannot think themselves answerable for the consequences, being conscious of having done their duty as officers. But as it is the determination of officers & men to defend the Post to the last extremity (being sensible of its importance) wish only for the means, And hoping that something may be speedily done for the better support of the Department. Majr: Walls is hereby

²¹ *Virginia Calendar State Papers*, III:440.

desired to lay this, with the State of the Garrison, before the General, requesting him to make the necessary alterations or Amendments, and lay the same before the Commiss'rs, or take such other measures as he may think most proper.

By order & in behalf of the Whole,

Signed W. Clark."²²

²² Id. 437.

CHAPTER XXII

PEACE TREATY ENDS REVOLUTION

In 1782 peace negotiations virtually ending the Revolutionary war were carried on at Paris. Vergennes represented France; Franklin, Jay and Adams the thirteen United States. All three of the American negotiators were very able men, and patriots to the core—Adams opinionated and contentious, but transparently honest; Franklin a worldly-wise and practical old philosopher, bland of manner and a most shrewd trader; Jay dignified, reserved, guileless, but of rare acumen and great moral courage.

Lord Shelburne, the British prime minister, whose administration was created for the purpose of securing peace for his country, guided its negotiations through his agents at Paris. Great Britain had become financially so utterly exhausted by eight years of war that one of Shelburne's negotiators, Oswald, frankly confessed this to Franklin, saying: "Our enemies can do what they please with us; they have the ball at their feet."¹

Before the Americans would discuss other terms of peace, they demanded of Great Britain an unqualified recognition of the independence of the United States. At this George III balked, but after some months of delay, made the acknowledgment and the negotiations proceeded.

It has been seen that the American commissioners had been commanded by Congress "to make the most candid and confidential communications upon all subjects; . . . and . . . undertake nothing in the negotiations without [Vergennes'] knowledge and concurrence; . . . and ultimately to govern [them]selves by [his] advice and opinion." Jay knew that following these instructions meant that Vergennes would make a treaty for the United States which would give Spain the southern part of our

¹ *Diplomatic Correspondence*, V:
570.

trans-Allegheny country, and probably to Great Britain the region north of the Ohio.

Doctor Franklin had no other thought than to follow the instructions, for he was deluded into the belief that Vergennes was a genuine friend of America and a man whose word could be relied on. The fact was that from his first coming to Paris, Franklin had been courted by the French nobility and even royalty, and by none so assiduously as Count Vergennes. He had not only received, personally, many extraordinary marks of favor, but had procured through Vergennes invaluable aids for his struggling country, in money, men and military supplies. Profoundly grateful for all this, and being old and growing infirm, he seems to have had no suspicion that Vergennes' real aim was not to befriend America, but to weaken and humiliate Great Britain, to exhaust the American states, to confine them east of the Alleghenies, to secure their western country for Spain,² and to make them forever dependent on France.

Fortunately for the American people, however, Jay, although naturally unsuspecting, had in Spain become utterly distrustful of Spanish and French diplomacy; and he soon had reason to suspect that Vergennes had sent Gerard to London to arrange a secret understanding with Shelburne. This suspicion Jay became thoroughly convinced was well founded; and thereupon he determined upon a step which for sublime moral courage is perhaps unrivaled in the annals of American heroism. Violating his instructions from Congress, and without consulting either of his colleagues, he secretly sent an agent to London to propose to Shelburne a separate treaty of peace between Great Britain and America! This he did, well knowing it would offend Franklin, for whom he had a real affection, might incense Adams, would enrage Vergennes, and might cause France to make a peace with Great Britain which would leave the American confederation to carry on the war without a single ally. Finally, Jay knew that if Shelburne should reject his overture, or Adams and Franklin repudiate it, he would be execrated by his countrymen as a traitor, and possibly punished as one. But he knew also that an

² In fact, the French ministries seem never to have given up an aim to secure it for France. See *American Historical Review*, X:249, *The*

Policy of France Toward the Mississippi Valley, by Prof. Frederick Turner.

agreement between Vergennes and Shelburne meant his country's ruin; and to avoid that he bravely faced ruin and disgrace for himself.

Shelburne, however, did not reject Jay's overture. He saw his opportunity to rid Great Britain of war with America and enable it to demand reasonable terms of peace from France and Spain; so he let Jay know that he was ready to open negotiations with him. Thereupon Jay told Franklin and Adams what he had done. Adams, who was himself suspicious of Vergennes, approved it. Franklin was shocked and humiliated, for he was loath to violate his instructions or to offend Vergennes. After a time, however, he came into the view of Jay and Adams, and all entered into negotiations with Shelburne's agent without letting Vergennes know what they were doing.

As anyone who carefully follows, step by step, the diplomacy of France and Spain with reference to America during the Revolution, will see that its main object was to secure for Spain a large part of our trans-Allegheny country and control of the Mississippi, so also anyone who closely follows the peace negotiations between Shelburne and his agents on one side, and the American commissioners on the other, can hardly fail to see that Shelburne's main object was to secure the Illinois country for Great Britain. During his long connection with the Board of Trade for the Colonies, he had become more familiar, perhaps, than any of his countrymen with the great natural wealth and possibilities of that region. None better knew its supreme strategic value for building up a strong British power in the Mississippi Valley in the event that the thirteen Atlantic states should become independent. With its great area of level and rich lands and its tractable inhabitants, he could confidently expect it to form the nucleus of a rapidly growing empire which would soon dominate the Mississippi Valley, in time absorb Spanish Louisiana, prevent westward growth of the Atlantic states, and ultimately, perhaps, restore them to the British Crown.

Shelburne was too shrewd a diplomatist, however, to disclose to the American commissioners his ardent desire for the Illinois; for that would have bared his ultimate aim to regain for Great Britain far more than that region. Ostensibly, therefore, he did not press a claim to the Illinois; but he did insist most strongly upon another demand which, if granted, he knew would secure

that region for Great Britain. This demand was that the United States should compensate the "Tories," or "Loyalists," for their properties confiscated during the war; but Shelburne perfectly well knew that the moneyless Confederation could only make such compensation in western lands. He undoubtedly wanted to have the loyalists compensated, but he had infinitely farther-reaching views than compensating that small fraction of British subjects. He wanted far more to get for Great Britain that strategically priceless region to build up an expanding power to dominate North America.

During the negotiations Franklin wrote:

"We had much contestation about the boundaries. . . . They wanted to bring their boundary down to the Ohio and settle their loyalists in the Illinois country. We did not choose such neighbors."³

Adams, after learning from Jay of Gerard's secret interview with Shelburne (in which the Frenchman suggested that Great Britain should claim the region from the Great Lakes to the Ohio) wrote:

"I am not sure that the Tories and the minister and the nation are not secretly stimulated by the French to insist upon Penobscot [as the Maine boundary] and a full indemnification of the Tories. . . . Nevertheless, if my Lord Shelburne should not agree with us, these will be only ostensible points. He cares little for either."⁴

After almost endless "make-weight" disputation about comparatively immaterial claims, and after all of these conflicting demands of the two sides had been conceded or withdrawn, the only unsettled ones left were (1), the American demand for western boundaries and (2), Shelburne's "ostensible" demand for Tory compensation. This he declared was an obligation of honor and an *ultimatum* from which his King would never recede, and his negotiators said "a refusal upon this point will be *the* great obstacle to peace." But all the while it was not compensation for the loyalists themselves that he most ardently desired, but that the Illinois country be given up to Great Britain as an estab-

³ *Diplomatic Correspondence*, VI: 112-3. ⁴ *Id.* V:856-7.

lishment for them in order to give that power a foothold in the Mississippi Valley.

In his confidential instructions to Oswald, one of his negotiators, he said:

"An *establishment* for the loyalists [not restoration of their confiscated estates, nor money compensation to them, but an "establishment" for them] must always be on Mr. Oswald's mind, as it is uppermost in Lord Shelburne's."⁵

The history of these peace negotiations will be found much more fully treated elsewhere, with quotations from many of the diplomatic records.⁶ Here it need only be said that, on the very last day of the negotiations, Shelburne's agents threatened to break them off and leave Paris unless their *honor ultimum* were conceded. The American commissioners remained firm. Their *ultimum* was that the United States should extend to the Mississippi, and to this the British at last agreed. Thereupon, by request of all the negotiators, Jay drew up preliminary articles of peace which all signed and which declared (1) that the territory of the United States should extend westward to the center line of the Mississippi River, thus including all the Illinois, Kentucky and the great region southward of it down to latitude 31°; (2) that Congress should earnestly recommend to the legislatures of the respective states to provide for the restitution of all confiscated estates, rights and properties of British loyalists; (3) that creditors on either side should meet with no lawful impediment to the recovery of debts due them; (4) that Great Britain should withdraw its "armies, garrisons and fleets from the said United States and from every post, place and harbor within the same;" and (5) that the navigation of the Mississippi "from its source to the ocean shall forever remain free and open to the subjects of Great Britain and the citizens of the United States."⁷ With some changes of other provisions this treaty became a final one, September 3, 1783.

The tremendously important part which Virginia and her pioneer people in Kentucky played in carrying the western bound-

⁵ Id. V:571. Author's italics.

⁶ See author's *George Rogers Clark*, p. 247-50; *Revolutionary West in Diplomacy and Politics* (in preparation.)

⁷ The right was reserved to British subjects because it was thought the river source was in western Canada.

dary of the United States to the Mississippi, and from Florida to the Great Lakes, has now, it is hoped, been made fairly plain. It was those Kentucky men who, led and represented by Clark in 1776, induced and almost forced Virginia to assert her charter right to Kentucky. It was they who, led by him, in 1778, caused Virginia, single-handed, to carry the Revolutionary war into the enemy's country, and next year to drive the British forever from the Mississippi Valley north of the Ohio. That conquest—considering its direct effects during the Revolution in swelling the western American population, its influence upon the peace negotiations in securing the Revolutionary West, and its later influence in bringing about the union, expansion and greatness of the United States—was the most fruitful conquest in the world's modern history; and the main actors in it were the pioneers of Kentucky and their brethren from the inner frontiers of Virginia.

During the year 1783, because of the news of the preliminary peace treaty with Great Britain, and the general expectation of a definite peace securing American independence and boundaries extending to the Great Lakes, the Mississippi and Spanish Florida, the Kentucky people experienced a feeling of great relief, notwithstanding their exhaustion by so many years of war and their disordered economic and political affairs. With what proved to be unwarranted confidence they looked to the Continental Congress to take possession of Niagara, Detroit and the other posts along the Great Lakes, and thus end the Indian warfare which had been instigated and supported by the British there. Their soil and climate they knew were inviting, and with their wonderful river navigation facilities—a network of interior navigable streams (the Big Sandy, Licking, Kentucky, Green, Cumberland, and Tennessee) reaching nearly every part of the district, the broad Ohio flowing several hundred miles along their entire northern boundary, and the Mississippi to carry products to New Orleans and thence to world markets—they felt that Kentucky would soon contain a vast and wealthy population. To meet the public needs under the new anticipated conditions, various reforms were projected.

One of the first was the establishment for the district of a general court which should have jurisdiction in common law and chancery cases, including those involving land titles, and also in

criminal prosecutions. In March, 1783, the court was organized, under an act of the Virginia Assembly. Samuel McDowell and John Floyd were appointed judges, and John May, clerk. At the same time Walker Daniel was appointed attorney-general for the district. Hardly had the court been established, however, before the gallant Floyd was dead; and the next year Daniel likewise was killed by the Indians.

The court appointed May and Daniel to select a place for its sittings, and authorized them to employ men and build a log court room and jail. Although Harrodsburg had been the chief town of Kentucky and in a sense its capital, it had no adequate accommodation for the new supreme court. The commissioners selected as the site for the new buildings a lot of land in what is now Danville, which then became the center of the political life, as well as legal affairs of Kentucky, and remained such until the state government was established nine years later. The courthouse erected was required to be large enough for a court room at one end, two jury rooms at the other, and the jail was to have hewn log walls nine inches thick.⁸

Soon after the people of the district were given their new Supreme Court, a number of them joined in a petition thanking the Assembly for establishing it, but said:

“But your Petitioners are greatly perplexed to find that the advantages intended us by this Court, are likely to be lost thro. the Insufficiency of the Fund appointed for its Support: Adequate permanent Salaries for the Judges and the Attorney General, with suitable Buildings & Attendants, have always been found so indispensable to the Dignity of Courts of Judicature, that on the very inadequate and precarious Fund already granted to our District Court, we cannot expect that Gentlemen qualified to act as Judges or those who are capable of making themselves so, will continue in Office, when the State of Indigence and Dependence to which they will be reduced, must unavoidably destroy the Solemnity of their Decisions, and subject them to the Imputation of Negligence or Partiality.

“That a Remedy be timously provided against this impending Evil, your Petitioners are constrained most earnestly to . . . pray that the Salaries of the Judges and Attor-

⁸ Collins' *Kentucky*, II:258; Marshall's *Kentucky*, I:152.

ney General for the District, may be made equal to the Duties of their Office; and as we have been granted a separate Jurisdiction, that Funds may be established on such public Monies arising in the District, as will be sufficient for its Support.”⁹

The petition then points out several sources of tax income that might be made available for the support of the court.

Soon afterward another petition, signed by General Clark, Colonels Benjamin and John Logan, and Levi Todd, Isaac Shelby, Simon Kenton, Judge McDowell, James Knox, Gabriel Madison, Lewis Craig, Thomas Marshall and others, stated that the establishment of the court was already having

“good effects . . . which we begin already to feel, by the discouragement of vice and fraud, which were too prevalent among us; and we cannot help expressing our concern to understand that there are some people in Kentucky so lost to virtue, honesty and good order as to wish for its repeal. We cannot but believe that those are a set of people who never were friendly to the Government of Virginia, nor would be pleased with any laws that its Legislature can pass. We, therefore, hope your Honorable House will pay no regard to any petitions which may be sent to you by a disaffected few, whose wishes are rather to overthrow than support your Government.”

They ask “that our military may be put on a footing that may more effectually defend us against our savage enemy,” and for a law “authorizing some civil power to solemnize the marriage rites, as we have no clergy either of the Church of England or Presbyterian, who compose the greater part of our inhabitants.”¹⁰

The war with Great Britain being virtually ended, in the spring of 1783 General Clark resigned command of the state troops in the West, and left the command to Major George Walls. Before leaving Kentucky, he wrote full instructions for his successor, saying: “I know you cannot support the few Troops you have, so plentifully as I could wish, but probably [can obtain supplies] such as will be absolutely necessary for their Support.” The safety of the Kentucky settlements, he said, “greatly depends on the circle of intelligence that ought to be kept up beyond the Ohio” to learn of Indian movements there, and he particularly enjoined that this be done. He said: “Although the neighboring

⁹ *Draper MSS.*, 51 J 96.

¹⁰ *Id.* 14 S 52.

tribes on the Wabash hath declared war, I dont suppose it would prevent you from a correspondence with St. Vincents in such a manner that the Indians should not know of it, . . . but by no means drop an expression that would give an idea that we would wish peace with them."¹¹

General Clark also addressed a letter to the county lieutenants urging them to assist Major Walls with militia to build a fort at the mouth of the Kentucky as ordered by Governor Harrison. He said:

"You may take it for granted that a genl: peace hath taken place much to our advantage. All the British posts on the lakes are to be given up to us & garrisoned by Continental Troops, and [I] hope that a spirited exertion of the frontiers this summer will put an end to their sufferings, that peace and tranquillity will take place in your little Country when the long spirited Exertions of the people so much entitle them to it. I don't think that any thing on the part of Government will be wanting, as they appear Exceedingly dispos'd to use the most salutary measures to answer the purpose of Reducing the Indians to Obedience, And their circumstances must be so widely different to what they formerly were that they will be able to execute what they please."¹²

Both these predictions, it will be found, unfortunately proved to be ill founded.

The list in the footnote below of a few of the prisoners taken by the northwestern Indians will give a very slight idea of the losses the Kentucky people sustained by capture during the eight years of war and may interest relatives of those named.¹³

¹¹ *Virginia Calendar State Papers*, III:461.

¹² *Id.* III:478.

¹³ "Philadelphia, Aug. 12, 1783.

"Captain Dalton, Superintendent of Indian Affairs for the United States arrived here last week from Canada, which he left about a month since, in company with 200 Americans, who are at length happily liberated from a cruel captivity with the savages. But he is sorry to inform us, that there are a number of unfortunate fellow sufferers, who are still retained as prisoners by the Indians. The sufferings of Captain Dalton and his

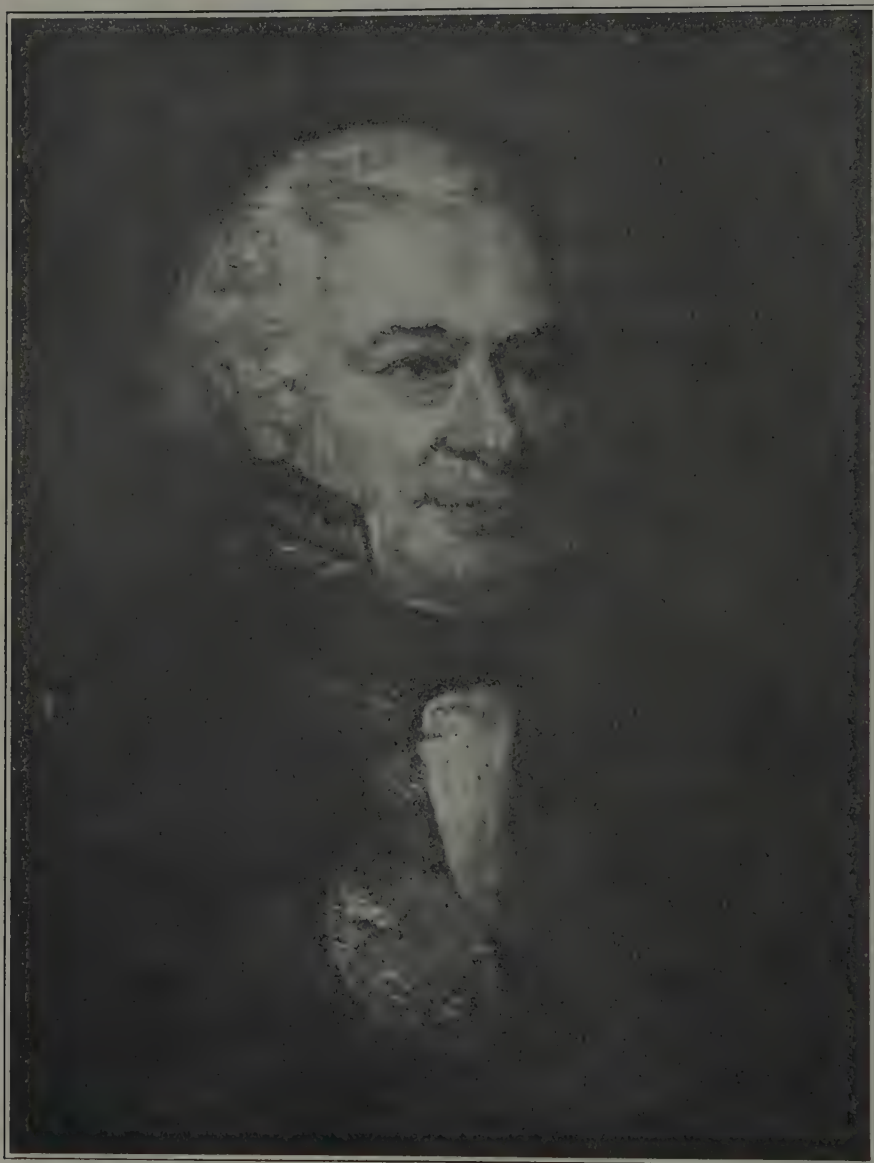
lady have been very great, both having been many years prisoners with the enemy, and forced to endure the most cruel treatment from their captors.

"For the satisfaction of their friends, Captain Dalton has given a list of the unhappy people who are confined chiefly among the six [western] nations, viz: the Shawnese, Delawares, Munseys, Ouiactenaws, Patawatawmaws, &c."

As Kentucky was the special object of the hostility of these tribes, no doubt most, if not nearly all, these prisoners were Kentucky people.

The list is as follows:

Armstrong, Andrew, & sister;
 Ash, Sylvester; Ash, George; Ash, Henry; Ash, Abraham; Ash, Isaac; Bailey, James; Bangle, William; Barton, John; Baker, Margaret; Benjamin, William; Bland, Jesse; Brooks, Benjamin; Brown, Mrs. and three children; Brown, Adam; Burger, Barbara; Burk, Hannah; Cain, James; Calloway, Francis; Calloway, Henry; Calloway, Jonathan; Coile, Martin; Coile, Crishm; Coile, Barbara; Coone, Abraham; Cooper, James; Crawford, James; Cruders, Robert; Dalton, Nancy; Davis, Samuel; Davis, Isaac; Davison, James; Delong, Jonathan; Denton, Mary; Doherty, Betsey; Dormin, Timothy & Wife; Dumford, John; Dundas, Katy; Emerick, Mary; Etermaw, David; Etermaw, Daniel; Etermaw, Katy; Fisher, Frederick; Fisher, Elizabeth; Francis, Polly; Fulks, George; Fulks, Elizabeth; Gold, Jonathan; Gray, James; Hanna, Jonathan; Hawkins, Zophar; Hersler, Mrs. & four children; Hicks, Jonathan; Hitchcock, William, House, Rudolph, and brother; Hoy, Jones; Hunt, Elijah; Jones, John; Jones, Mary; Keer, Edmund; Kennedy, Mary and two children; Lawrens, Valentine; Lech, George; Lee, Thomas; Lee, Becky; Lee, Sally; Lieters, Henry; Linn, Rucy; Long, Jonathan; Long, Mary; Maffit, George; Malone, Lasley; Martin, Nancy; Matthews, Elijah; McCormick, Betsey; McCurdy, Polly; McCaumin, Betsey & son; McFall, John; McLane, Charles; McLee, Ann; McLee, Mary; McLee, Susy; McKutchy, Rachel; McSwine, James; Miller, Darkey; Miller, ———; Mitchell, Charles; Mitchell, Polly; Morgan, William; Morris, Kennit; Nealey, Robert; Newman, Joseph; Oatman, Nicholas; Pankburn, ———; Patterson, Kijah; Pauland or Paulin, Peggy; Plumer, Betsey; Polke, Betsey; Price, David; Proctor, Samuel; Reddock, Jonathan; Riddle, Isaac and two brothers; Rinkle, Katy; Rogers, James; Shearer, Margaret; Shoemaker, Adam; Shull, Jonathan; Sicks, Katy; Smith, Joseph; Smith, Nelby; Stear, Hugh; Stewart, James; Templeman, Adam; Thomson, Alexander; Trimble, Jonathan; Troy, Jonathan; Turner, Elizabeth; Tumey, John; Vingorder, Jacob; Ward, ———; White, Ambrose; Whitenise, Sally; Whitman, Polly, and her sister; Whittaker, Abraham; Whitts, ———; Williams, Thomas; Wilson, Nicholas; Wilson, Joseph; Wilson, Sarah; Wilson, Jonathan. (*Draper MSS.*, 32 J 118.)



(Filson Club Collection)

JAMES WILKINSON
(1757-1825)

PART FOUR

KENTUCKY AFTER THE REVOLUTION

CHAPTER XXIII

KENTUCKY SEEKS STATEHOOD

When the terms of the definite treaty of peace were made known in America and it was learned that Great Britain agreed to surrender the northern posts within the territory ceded to the United States, the belief was general in the east that Indian warfare was over. At once great numbers of eastern people looked to the west for rich lands and fortunes, and the year 1784 witnessed the second great immigration to Kentucky. Its character was very different from the previous one in 1780, and far superior. The immigrants of course were of all grades, but included many families of high social position in the east, and men of eminent ability and reputation. An overwhelming majority of them came from Virginia, and mainly from her great "Valley." Many were Revolutionary officers with distinguished records of service. (Some few of those who came to reside in Kentucky and became prominent there, are mentioned in the footnote below, with references to publications mentioning them.¹)

¹ The publications containing sketches or mention will here generally be referred to only by the author's name, and may be found by consulting the bibliography. The following list, it should be understood, is far from being a complete one, and includes many who came to Kentucky before the close of the war:

Allin, Thomas: *Speed* 77; Anderson, Richard Clough: *Collins* II:370, author's *George Rogers Clark*, 350; Bledsoe, Jesse: *Collins* II:80; Boyle

John: *Collins* II:90; Brown, James: *Speed* 66, *Collins* II:253; Brown, John: *Speed* 63-5, *Collins* II:252-3; Buford, Abraham: *Speed* 50-2; Bullitt, Alexander Scott: *Collins* II:106; Christian, Colonel William: *Whitsitt*, 73-9, *Dunmore's War* 429-30, *Collins* II:127; Clark, John: *George Rogers Clark*; Clark, William: id.; Crittenden, John: *Collins* II:147; Croghan, George: *George Rogers Clark*; Daveiss, Joseph Hamilton: *Collins* II:154; Desha, Joseph: *Collins* II:705; Fleming, Col-

Two only need to have particular attention here—one because he did more than any other man to make Kentucky's history for a score of years after his coming; the other because he did more than any other or all others to make up its printed history. The first was Gen. James Wilkinson, who has been rightly characterized as "America's greatest artist in treason"; the other was Humphrey Marshall, whose political conduct and method of writing history will appear hereafter.

Wilkinson was a singularly fascinating man, with a genius for constructive plotting. When hardly more than a boy he won considerable distinction in the Revolutionary Army, but left it discredited with many who had occasion to rely on his word or his loyalty. He came to Kentucky pretending to be a partner in a large business house of Philadelphia, borrowed money, was soon taken into various land speculations, and managed to appear as a man of means. He was received as a friend by nearly all the most esteemed men of prominence in the district, and soon won great popularity. How he used this makes an interesting and most important story.

Even before Virginia ceded to the United States any territory

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| <p>onel William: <i>Whitsitt</i> 80-6, <i>Dunmore's War</i> 428; Floyd, John: <i>Dunmore's War</i> 9, <i>Louisville's First Families</i> 153 et seq., <i>Collins</i> II:238-9; Fry, Joshua: <i>Collins</i> II:625; Green, Willis: <i>Speed</i> 70-4, <i>Collins</i> II:87; Greenup, Christopher: <i>Speed</i> 53-6, <i>Collins</i> II:303-4; Gwathmey, Owen: <i>George Rogers Clark</i>; Hardin, John: <i>Collins</i> II:315-16; Innes, Harry: <i>Speed</i> 47-50, <i>Collins</i> II:273-4; Johnson, Robert: <i>Collins</i> II:705; McClung, William: <i>Speed</i> 81-2; McDowell, Samuel: <i>Speed</i> 56-61, <i>Collins</i> II:89, <i>Dunmore's War</i> 25; Madison, Gov. George: <i>Collins</i> II:254; Marshall, Humphrey: <i>Collins</i> II:249,394; Marshall, Colonel Thomas: <i>Collins</i> II:393-4; May, George: <i>Collins</i> II:183,368; Muter, Judge George: <i>Speed</i> 47-50; Nicholas, Colonel George: <i>Collins</i> II:663-4; Oldham, Colonel William: <i>Collins</i> II:</p> | <p>668; Ormsby, Stephen: <i>Speed</i> 74-5; Overton, James and John: <i>Speed</i> 84-9; Owen, Abraham: <i>Collins</i> II:672; Owsley, William: <i>Collins</i> II:674; Robertson, Alexander: <i>Collins</i> II:687; Rogers, Edmund: <i>Collins</i> II:740; Rowan, John: <i>Collins</i> II:693; Russell, William: <i>Collins</i> II:695-6, <i>Dunmore's War</i> 6; Scott, General Charles: <i>Collins</i> II:706; Shelby, Gov. Isaac: <i>Collins</i> II:713-20, <i>Dunmore's War</i> 270; Short, Peyton: <i>Speed</i> 77-9; Speed, James: <i>Speed</i> 66-9; Speed, Thomas: <i>Speed</i> 69-70; Taylor, Captain Richard: <i>Collins</i> II:380, <i>Cresswell's Journal</i>; Todd John: <i>Collins</i> II:729, <i>Dunmore's War</i> 343; Todd, Thomas: <i>Speed</i> 45-7; Trigg, Stephen: <i>Whitsitt</i> 87 etc; Wallace, Caleb: <i>Whitsitt</i>; Walton, General Matthew: <i>Speed</i> 75-6; Wilkinson, James: <i>George Rogers Clark</i>.</p> |
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north of the Ohio, and before Indian titles to any lands there had been obtained,² Congress was laying plans for the survey and sale of large bodies of those lands. At length, on the first day of March, 1784, Jefferson tendered Virginia's deed ceding to the United States the whole territory northwest of the Ohio River, subject to a small reservation for the officers and soldiers of the Illinois Regiment.³ On the same day, Jefferson reported an ordinance for the government of the ceded Northwest Territory. It provided there should be no slavery in the territory after 1800; but unfortunately for both the slaves and their owners, this provision was stricken out. Three years later, in the over-lauded Ordinance of 1787 for the government of the territory, slavery was abolished *immediately*, thus breaking faith with the French inhabitants (whose main property was in slaves and had been guaranteed when they became American citizens) bankrupting most of them, and turning loose the ignorant slaves to be carried by conscienceless men into Spanish Louisiana and sold into far worse slavery there and in the West Indies.⁴

On the same day that Congress received Virginia's cession, it appointed commissioners to treat with Indians for lands in the ceded territory, and shortly afterward—and most unwisely—it adopted a resolution discharging all its Continental troops, save fifty-five at West Point on the Hudson and twenty-six at Pittsburgh. These two acts of Congress were to prove disastrous for the Kentucky people. The Indians, learning that their lands were to be demanded of them, and that no army was in the west to support the demand, became confident of their ability to maintain their ground, and decidedly more hostile.

The thousands of newcomers to Kentucky, instead of the peaceful conditions they had expected to find there, found themselves in a very caldron of contention and in almost constant dread of Indian raids. The efforts of the Indiana and Vandalia pro-

² Except seven and one-half miles square by the Ohio Falls ceded by the Piankeshaws in 1779.

³ A tract of 150,000 acres which was located just north of the Falls of the Ohio. For its history see author's *George Rogers Clark*, pp. 353-7. The privates got only 108 acres each, the officers in the usual

proportions. Connecticut, which had only the flimsiest claim to any western lands, got 3,500,000 acres in the "Western Reserve"—over twenty-three times as much as was granted to the men of the Illinois Regiment who won the country!

⁴ Id. 255, where the subject is more fully set forth.

moters to have Congress claim Kentucky under the fictitious cession from New York had indeed ceased; but not so the efforts of their emissaries to induce the Kentucky people to set up an independent state, which would repudiate Virginia's land grants and apply to Congress for admission into the Confederation; for the promoters hoped to control the new state and get from it large tracts of land.⁵ The efforts of their emissaries ended only after some of them were successfully prosecuted for treasonable conspiracy.⁶

Meanwhile the disordered conditions of affairs in Kentucky, the ever-present danger from the Indians, and the serious inconvenience of government from the distant state capital at Richmond, so plainly called for a separate state government for the District that nearly all the inhabitants, including those who were most loyal to Virginia, soon demanded one. This new separatist movement, which began in 1784, ended only with Kentucky's admission, in 1792, as the fifteenth state of the American Union. It is to be clearly distinguished from the previous new-state movement, which had been a treasonable conspiracy to overthrow Virginia's jurisdiction, and to set aside her land grants in Kentucky. On the other hand, the new "separatists," as they came to be called, fully recognized Virginia's jurisdiction and grants, and sought separation with her consent.

The plight of the Kentucky people after the Revolution and their need for statehood, are powerfully described in the well written and extremely rare little polemical book—*Political Transactions in and Concerning Kentucky*, by William Littell—a participant in those transactions. He is well known to the legal profession as the editor of the *Laws of Kentucky* and *Littell's Reports* of the decisions of its Court of Appeals. Describing "The Situation of the People in Kentucky prior to November, 1784," he said:

"During the war the Indians were the enemies of America at large. When peace was concluded, the situation of the western people, instead of being ameliorated, was rendered worse. The Indians, it is true, as the allies of Britain, had no pretensions to continue hostilities after their principal had acknowledged herself satisfied and made peace. But

⁵ See Walker Daniel's letter, *Virginia Calendar State Papers* III:430.

⁶ Walker Daniel to Governor, id. III: 555, 584.

they never had an adequate conception of the nature and consequences of the contest. *They* had never been conquered by the Americans, and could not understand how they could have been subdued in consequence of the Americans obtaining an advantage over the British in the eastern part of the continent, when they were daily making conquests in the west. They could not comprehend how they were subdued abroad by proxy, at the same time that they were conquerors at home in fact. But not only was their military pride wounded by this doctrine; their interest was vitally affected. They had never considered England as the proprietor of their country. Yet, under the treaty, America claimed it as ceded to them by Britain, and required from the Indians an acknowledgment of their right. This claim produced in the minds of the Indians a spirit of indignant resentment and desperate hostility towards the Americans, which no exertions of Great Britain could probably have ever affected. Hence the termination of the general conflict was a new era in the war between the Indians and the exposed frontiers of America.

"But the government, inattentive to these matters, and thoughtlessly or obstinately disregarding the consequences which must necessarily result, not only withdrew all efficient military force from the district; but left it destitute of any legal authority to put its own inherent strength into action. The fact is in short, that the government of Virginia and of the United States, seemed resolved to consider the Indians as friends; to permit no offensive measures to be taken against them, and to make no provision for defensive ones. Hence by the treaty of peace the Indians, instead of being the enemies of *America at large*, as they had hitherto been, became the enemies of the western country *alone*. This conduct of the eastern toward the western part of America may be accounted for, partly from delusion and partly from worse motives. The people of the Atlantic states, had, as they supposed, a considerable knowledge of the Indian national character: but their ideas were drawn from an acquaintance with savages under different circumstances, and impelled by motives variant from those which actuated the savages with whom Western Virginia had to conflict. The Indians originally inhabiting the eastern states, whose affection the early settlers of those countries found it no difficult matter to conciliate, and retain, were but feebly or not at all acted on by any adverse and extrinsic influence. No European nation for any length of time, or in any considerable degree, made it their interest to be hostile to their civilized neighbours.

Hence it became comparatively an easy matter for these states to make it the interest of the savages to continue peaceable towards them.

But the case was far different with the savages of the western country; they had for the space of eight years been under the energetic influence of the British nation, they had been flattered, allured, urged and impelled to acts of inhumanity and barbarity, by every motive which could influence the savage heart, and by every artifice which diabolical ingenuity & address could devise; their innate delight in cruelty had been cherished, nurtured and wrought up into an internal enthusiasm. Their avarice had been gratified by profusion—every detestable quality which they possessed from nature or habit, had been cultivated with unremitting assiduity, and every spark of humanity extinguished. Thus qualified for their destined employment; they had been formally hired by the job, year after year, to inflict agony and torture, death and destruction, on the unfortunate inhabitants of the American frontier.

Yet the people of the eastern states saw, or pretended to see, no difference between this description of savages and the comparatively humane and virtuous nations who were formerly the aborigines of their country. Add to this, that the brilliant sophistries of Jean Jaques Rosseau, on the mighty virtues of savage man, had then found their way to America, and had their influence in prejudicing some of our citizens in favour of the Indian nations. But a cause probably more operative than any of these, might be found in the jealousy and envy of the eastern people against the rising consequence of the western country. They had seen that country constantly increasing in population under all the circumstances of discouragement and distress to which man could be subjected; and asked themselves with fearful apprehension, what will be the consequences if no obstacle shall exist to prevent emigration, and no danger attend the emigrant.

“By these and similar motives, were the people of the east induced to leave the people of Kentucky unprotected and defenceless, in an *abstract technical* state of peace, although in an *actual* state of war.

“But about the time the regular troops were withdrawn such a state of things was produced by a chain of concurring circumstances as rendered their presence or the presence of some effective military authority more than ever requisite. Some arbitrary impressments towards the close of the war had excited great discontent; those immediately interested

began to search for the law which authorized it, and in this search the want of any effective military authority any where in the district was discovered. It was discovered that the people when called on by their officers to go on an expedition, had an election either to go or stay, that when a requisition was made for provision, the man on whom it was made, had his choice either to give it to the public or eat it himself; and at the same time that want of legal authority in the officers to effect a compulsory expedition, was discovered, the motives which might have produced a voluntary one ceased in the men.

"Many indeed of their most intrepid leaders and companions were numbered with the dead; others overpowered with excessive fatigues and deprivations, which human nature was not formed to sustain, had lost all energy, both of body and mind. Add to this, that on the first prospect of peace, many families had moved out from stations in which they had hitherto resided, and were attempting to cultivate farms. While attached to stations, they had been allured into expeditions by a propensity to activity inseparable from man, and were deterred by no considerations but those of a personal nature; as a party of men deemed adequate to the defence of each garrison, were always left to protect the women and children, and cultivate the adjoining land. But the case was now different: if the head of a family went on an expedition, he left his wife and children unprotected in the wilderness. He not only ran the risque of losing his own life on the campaign, but they were subjected to the hazard of being murdered, or of being taken prisoners and burnt to death in his absence. But if both should survive and meet again; yet, as few exertions for a livelihood could be made while he was away, it might be only to die of hunger together on his return. Their situation precluded the possibility of procuring the necessaries of life from abroad, and money was utterly wanting, if it had been otherwise practicable. For these they had to rely wholly on their own exertions in their own country. In this they were indeed independent.

"But the neglected & forlorn situation in which they now found themselves, was of itself sufficient to damp any military ardour. They had hitherto fought in a cause common, as they supposed, to all America—they had rejoiced in the success and sympathized in the distress of their fellow-citizens in every part of the union. The termination of the general conflict they had often anticipated with alternate transport and alarm, as an event which was to crown the wishes or seal the doom of all. That event had now taken place; it had

terminated favourably—but not to them. Peace had been proclaimed—but not to them. They were left in a situation far disjoined from all the civilized world, singly & alone, to combat any enemy formidable to united America; an enemy bound by no moral ties, influenced by no human feelings, on whose heart no hold could be taken, on whose professions no confidence could be reposed, treacherous in peace, tremendous in war, and diabolical in revenge. Yet an enemy which might and would, through the influence of England, have been their friend, had it not been for their attachment to the common cause. And that nothing might be wanting to make distress distraction, their former companions in the conflict, as soon as they had procured safety to themselves, began to display a cruel and mortifying partiality in favour of those who had lately been the common enemies of both.

“In this situation the people became politicians from necessity, not from choice. In this situation they commenced those public consultations, discussions and political transactions, which terminated in the ultimate independence of their own country. These will be the subject of the following chapters.”⁷

The first movement for separation began in an informal meeting at Danville, in November, 1784. Reports of a threatened Indian invasion reached some of the militia officers there, shortly after the general court had adjourned and while many of the prominent people of the district were still there, and a number of these held a meeting to discuss measures of defense. So far as known, the only extant contemporary account of the discussions at this meeting is in the following amusing letter to Col. Arthur Campbell from one Ebenezer Brooks, who seems to have been an absurdly vain little man, and probably a confederate of Campbell and other new-state conspirators seeking to overthrow Virginia's jurisdiction over Kentucky. The letter reads:

“[Danville] November 9th 1784

“Sir:

“I am informed that a letter is now in the country which you have sent me [and] I shall not see until the present opportunity of writing is past.

“Two days ago Col Logan called a council upon the present emergency of affairs to which he was pleased to invite

⁷ Littell's *Political Transactions*,
Filson Club Publications No. 31,
pp. 7-11, (reprint).

me. He delivered us, in a much more parliamentary manner than I expected, a full, clear and alarming proof of the hostile intention of the Cherokees and Chickamaugas against this country.

"The General Court were under adjournment and we had the principal men of the District together. It was late in the evening when the accounts were laid before us and the Council adjourned to the day following.

"Col. Fleming had been addressed as the chairman of the meeting, without any formal election, the preceding day, but it was found that an expedition was ardently wished for by every friend of his country. [Such expeditions had been forbidden by the Virginia government, as we have seen.] The next morning thereafter, it was brought about that Col. Shelby, the most gallant of all our heroes, and the most zealous advocate for the expedition, was by Col. Fleming's motion fixed in the chair. Col. Logan, having appeared upon oath, only as an informant, never took part in the Council.

"Mr. Greenup, a good speaker upon the same side of the question was chosen clerk.

"Then up rose Mr. Caleb Wallace to explain some of his objections to the preceding evening and insinuated that the undertaking would be, in great measure, contrary to law and irregular. No man seeming ready to reply to a speech which was pretty artfully delivered, an obscure little man, whom you may conceive to be your humble servant, arose and discussed the point, both with respect to law and order. It gave me a singular pleasure to see the design of all the preceding manoevers so effectually nipped in the bud. Not a single man answered a single word for some time. Then I rose a second time & proposed a plan of proceeding which would put in the power of the volunteers both to direct their own operations and to send for themselves to government the reasons of their proceedings.

"This was sufficient to rouse the wit of the great men, who seemed for some minutes before to be in a state of lethargy. Col. Fleming made two or three deliberate speeches, to which an answer could not come with propriety by any other than the person who gave rise to them; and Col. Muter aided the sinking cause with British eloquence. However we managed so that the expedition was unanimously carried, and your humble servant meekly submitted to the reflections with having entertained the Assembly with nothing but declamation.

"But I anticipate this part of the story, for these reflections were not made, and I had the honor of a fair victory

over a Doctor, a lawyer, and a quandam priest, until Col. Logan, with a very solemn countenance, handed the council a letter from Col. Martin containing fine accounts from the Southern Indians, a peaceable talk from the Chickamaugas and an assurance that a great body of Northern Indians were on their march to Kentucky.

"Would you think it!—many blustering men were now pacified and my antagonists raised their heads. I contented myself with giving them a rising blow or two; but it was easy to see that nothing could be gained by fighting.

"The council were then moved to represent to the Assembly the state of affairs; but I proposed that it should be considered whether this was not a proper time to demand, what the constitution had promised us,—a separate government. The Council, in consequence, appointed an election to be held in the several militia companies and we expect a committee [Convention] on the fourth Monday of next month which may be an introduction to important events.

"I am, Sir, your humble servant,

Ebenezer Brooks.

To Co. Arthur Campbell."^s

The alarming situation of Kentucky when this meeting was held, says Littell,

"seemed to demand the immediate undertaking of an expedition. But from adopting such a measure they were prevented by difficulties utterly insurmountable. No man or set of men in the district were invested with authority to call the militia into service. Ammunition adequate to the expedition deemed necessary, was not in the district; what was there was private property, and there existed no authority to purchase on behalf of government—no funds to pay for it, and no power to take it for the public use. There was the same want of power as to procuring provisions; and if the militia would have served voluntarily, and could have furnished themselves with arms, ammunition, and every thing necessary, no person was authorized to assure them that government would ever pay them for their services, or ever reimburse their expenditures; for as it would be an expedition unwarranted by law, government might thereafter construe it as an act of merit or criminality, as sympathy might dictate or prejudice suggest.

"In this crisis of anarchy within and hostility without, the citizens convened at Danville, recommended to the people

^s *Draper MSS* 11 J 37-8.

at large to elect one representative from each militia company in the district, to meet in the ensuing month at that place, to devise if possible some means of preserving their country from that immediate destruction which seemed then impending.

"The measure thus recommended was adopted. Elections were held; and the persons elected convened at the time and place appointed; and after deliberating on the state of the country for about ten days, resolved, that many of the inconveniences under which they laboured might be removed by the legislature of Virginia. But that the great and substantial evils to which they were subjected, arose from causes beyond the power or control of that government, viz. from their remote and detached situation, and could never be redressed until the district had a government of its own. The constitution of Virginia had made provision for the erection of one or more governments in the western territory, when occasion might require.

"In pursuance of the above resolution, the convention recommended the election of members in every county, to meet in another convention to be held at the same place on the 23rd. of May following, [1785], whose deliberations were to be directed peculiarly to the propriety of making application to the legislature of Virginia, for permission to become an independent state. The time fixed on for holding these elections was the court days in the month of April, as this was likewise the legal election day for members of assembly. It was considered that the people would be generally collected, receive full information of the question to be discussed, and be completely represented in the convention."⁹

This December, 1784, convention is sometimes referred to as the first popular convention for considering separation, but it was called only to devise means of defense against the Indians and represented only military companies. The next convention—the first popular one—contained twenty-eight delegates,¹⁰ and met at Danville on May 23, 1785. After several days of discussion, resolutions were unanimously adopted to send a petition to the Virginia Assembly asking its consent for Kentucky's separation from

⁹ Littell's *Political Transactions*, pp. 12-13.

¹⁰ Of the twenty-eight delegates, twelve were to have represented Lincoln County, eight Jefferson, and

eight Fayette; but before the elections were held, Nelson County was formed out of Jefferson, changing the apportionment.

Virginia and admission into the Confederacy.¹¹ A copy of the petition was sent to the clerk of each county, with the following address to the Kentucky people:

"To the inhabitants of the District of Kentucky.
"FRIENDS AND FELLOW-CITIZENS,

"We your representatives, met in convention, in consequence of our appointment, beg leave to address you on a subject which we consider of the last importance to you, to ourselves, and to unborn posterity. In every case where it becomes necessary for one part of the community to separate from the other; duty to Almighty God, and a decent respect to the opinions of mankind, require that the causes which impel them thereto, should be clearly and impartially set forth.

"We hold it as a self evident truth, that government is ordered for the ease and protection of the governed: and whenever these ends are not attained, by one form of government: it is the right, it is the duty of the people, to seek such other mode, as will be most likely to ensure to themselves and their posterity, those blessings to which by nature they are entitled.

"In the course of our enquiries, we find that several laws have passed the legislature of Virginia, which, although of a general nature, yet in their operation are particularly oppressive to the people of this district; and we also find, that from our local situation, we are deprived of many benefits of government, which every citizen therein has a right to expect; as a few facts will sufficiently demonstrate.

"We have no power to call out the militia, our sure and only defence, to oppose the wicked machinations of the savages, unless in cases of actual invasion.

"We can have no executive power in the district, either to enforce the execution of laws, or to grant pardons to objects of mercy; because such a power would be inconsistent with the policy of government, and contrary to the present constitution.

"We are ignorant of the laws that are passed until a long

¹¹ They read as follows: "Resolved unanimously, as the opinion of this committee, That a petition be presented to the Assembly, praying that the said district may be established into a state, separate from Virginia.

"Resolved unanimously, as the

opinion of this committee, That this district, when established into a state, ought to be taken into union with the United States of America, and enjoy equal privileges in common with the said states." (*Political Transactions*, p. 61.)

time after they are enacted, and in many instances not until they have expired; by means whereof penalties may be inflicted for offences never designed, and delinquents escape the punishment due to their crimes.

"We are subjected to prosecute suits in the High Court of Appeals at Richmond, under every disadvantage, for the want of evidence, want of friends, and want of money.

"Our money must necessarily be drawn from us, not only for the support of civil government, but by individuals, who are frequently under the necessity of attending on the same. Nor is it possible for the inhabitants of this district, at so remote a distance from the seat of government, ever to derive equal benefits with the citizens in the eastern parts of the state; and this inconvenience must increase as our country becomes more populous.

"Our commercial interests can never correspond with, or be regulated by theirs, and in case of any invasion, the state of Virginia can afford us no adequate protection, in comparison with the advantages we might, (if a separate state) derive from the *Federal union*.

"On maturely considering truths of such great importance to every inhabitant of the district, with a firm persuasion that we were consulting the general good of our infant country, we have unanimously resolved, 'that it is expedient and necessary for this district to be separated from Virginia, and established into a sovereign independent state, to be known by the name of the "commonwealth of Kentucky," and taken into union with the United States of America.'

"In order to effect this purpose, we have agreed on a petition, to be presented to the legislature of Virginia, at their next session, praying that a separation may take place; in which petition are fully set forth such terms as we thought beneficial to our infant country, and not inconsistent for Virginia to grant.

"It is generally admitted that this district ought at some period not far distant, to be separated from the government of Virginia. The only question then is, whether we are now of sufficient ability, either to fill the different offices of government, or to provide for its support? In answer to the first part of this objection, examples have taught us, that sound principles and plain sense suffice for every laudable purpose of government; and we generally find that the liberty of the subject and the laws of the land, are in the highest reverence at the foundation and rise of states, before the morals of the people have been vitiated by wealth and

licentiousness, and their understandings entangled in visionary refinements and chimerical distinctions: and as to the latter part, we have now in our power several valuable funds, which, if by *procrastination* we suffer to be exhausted, we shall be stripped of every resource but internal taxation, and that under every disadvantage: and therefore we do not hesitate to pronounce it as our opinion, that the present is preferable to any future period.

"By an act of the last session of assembly, we find, that the revenue law is now fully and immediately to be in force within the district, so that we shall not only pay a very considerable part of the tax for supporting the civil government of Virginia, but also be obliged to support our supreme court, and every other office we need in the district, at our own charge; and we are of opinion, that the additional expense of the salaries to a governor, council, treasurer and delegate to congress, will for a number of years be more than saved out of the funds before alluded to, without any additional tax on the people.

"To impress you still more with a sense of our regard to your interests, as a free people, we have determined not to proceed in a matter of such magnitude, without a repeated appeal to your opinions; we have therefore recommended the election of another convention, to meet at Danville on the second Monday in August next, to take further into consideration the state of the district, and the resolves of this and the preceding convention. In this election we hope you will be actuated by a serious sense of the important objects, which the proposed election is designed to promote."¹²

There was then no printing press in Kentucky, but the convention appointed a committee to arrange for one "to insure unanimity in the opinion of the people, and to give publicity to

¹² Littell's *Political Transactions* pp 63-7. The address continues:

"Ordered, That the clerk of the convention transmit one copy of the petition and one copy of the address now agreed on, to the clerks of the several courts in the district, with a request that they be set up at their respective court-house doors.

"Ordered, That the resolve of this convention, fixing the time of holding the several elections in the district, be annexed at the foot of the

copies of the two addresses which are to be transmitted to the clerks of the several courts.

"Resolved, That the number of members for each county, be as follows: for the county of Jefferson, six—for the county of Nelson, six—for the county of Lincoln, ten—for the county of Fayette, eight: and that the elections be held on the July court day of each county, at the courthouse."

the proceedings of the convention."¹³ Two years, however, were to pass before a press was established and the first newspaper printed in Kentucky.

The next (second) popular convention met at Danville in August, 1785, and

"Resolved . . . That it is the indispensable duty of this convention, as they regard the prosperity and happiness of their constituents, themselves and posterity, to make application to the general assembly, at the ensuing session, for an act to separate this district from the present government forever, on terms honourable to both and injurious to neither; in order that it may enjoy all the advantages, privileges and immunities of a free, sovereign and independent republic."¹⁴

After passing this resolution, the convention caused the following florid address, confidently attributed to General Wilkinson, to be sent to the Virginia Assembly:

"To the Honorable General Assembly of Virginia.

"Gentlemen:

The subscribers resident in the counties of Jefferson, Fayette, Lincoln, and Nelson, composing the district of Kentucky, being chosen at free elections held in these counties respectively by the free men of the same, for the purpose of constituting a convention, to take into consideration the general state of the district, and expressly to decide on the expediency of making application to your honorable body, for an act of separation—deeply impressed with the importance of the measure, and breathing the purest filial affection, beg leave to address you on the momentous occasion.

"The settlers of this district region, taught by the arrangements of Providence, and encouraged by the conditions of that solemn compact for which they paid the price of blood, to look forward to a separation from the eastern parts of the

¹³ Collins' *History of Kentucky* I:517.

¹⁴ Littell's *Political Transactions* p. 68. "Unanimously agreed to by all the members present, whose names are hereto annexed: Mr. Saml M'Dowell, President, Mr. George Muter, Mr. Christopher Irvin, Mr. William Kennedy, Mr. Benjamin Logan, Mr. Caleb Wallace, Mr. Harry Innes, Mr. John Ed-

wards, Mr. James Speed, Mr. James Wilkinson, Mr. James Garrard, Mr. Levi Todd, Mr. John Coburn, Mr. James Trotter, Mr. John Craig, Mr. Robert Patterson, Mr. Richard Terrell, Mr. George Wilson, Mr. Benjamin Sebastian, Mr. Phillip Barbour, Mr. Isaac Cox, Mr. Isaac Morrison, Mr. Andrew Hynes, Mr. Mathew Walton, Mr. James Morrison, and Mr. James Rogers."

commonwealth; have viewed the subject leisurely at a distance, and examined it with caution on its near approach:—irreconcilable as has been their situation to a connexion with any community beyond the Appalachian mountains, other than the federal union; manifold as have been the grievances flowing therefrom, which have grown with their growth and increased with their population; they have patiently waited the hour of redress, nor even ventured to raise their voices in their own cause until youth quickening into manhood, hath given them vigour and stability.

“To recite minutely the causes and reasoning which have directed and will justify this address, would, we conceive, be a matter of impropriety at this juncture. It would be preposterous for us to enter upon the support of facts and consequences, which we presume are incontestable; our sequestered situation from the seat of government, with the intervention of a mountainous desert of two hundred miles, always dangerous, and passable only at particular seasons, precludes every idea of a connexion on republican principles. The patriots who formed our constitution, sensible of the impracticability of connecting permanently in a free government, the extensive limits of the commonwealth, most wisely made provision for the act which we now solicit.

“To that sacred record we appeal.—’Tis not the ill-directed or inconsiderate zeal of a few, ’tis not that impatience of power to which ambitious minds are prone; nor yet the baser considerations of personal interest, which influences the people of Kentucky; directed by superior motives, they are incapable of cherishing a wish unfounded in justice; and are now impelled by expanding evils, and irremediable grievances, universally seen, felt and acknowledged, to obey the irresistible dictates of self-preservation, and seek for happiness by means honorable to themselves, honorable to you, and injurious to neither.

“We therefore, with the consent, and by the authority of our constituents, after the most solemn deliberation, being warned of every consequence which can ensue, for them, for ourselves, and for posterity unborn—do pray that an act may pass at the ensuing session of assembly, declaring and acknowledging the sovereignty and independence of this district.

“Having no object in view but the acquisition of that security and happiness which may be attained by scrupulous adherence to principles of private justice, and public honor; we should most willingly at this time enter into the adjustment of the concessions which are to be the condition of our separation, did not our relative situation forbid such negotia-

tion, the separation we request being suggested by necessity and being consonant to every principle of reason and justice, we are persuaded will be cheerfully granted, and that we shall be as cheerfully received into the continental union on the recommendation of our parent state.

"Our application may excite a new spectacle in the history and politics of mankind. A sovereign power solely intent to bless its people, agreeing to a dismemberment of its parts, in order to secure the happiness of the whole; and we fondly flatter ourselves, from motives not purely local, it is to give birth to that catalogue of great events which we persuade ourselves are to diffuse throughout the world, the inestimable blessings, which mankind may derive from the American revolution.

"We firmly rely that the undiminished lustre of that spark which kindled the flame of liberty, and guided the United States of America to peace and independence, will direct the honorable body to whom we appeal for redress of manifest grievances, to embrace the singular occasion reserved for them by divine providence, to originate a precedent which may liberalize the policy of nations, and lead to the emancipation of enslaved millions.

"In this address we have discarded the complimentary style of adulation and insincerity. It becomes freemen, when speaking to freemen, to employ the plain, manly, unadorned language of independence, supported by conscious rectitude."¹⁵

An address to the Kentucky people, in even more high-flown language than the one to the Assembly, was also issued by the convention. Its author was Wilkinson, who was thus early thrusting himself into prominence in the political affairs of the district, and making himself seem to represent others who were by no means his followers, but were silenced by his assurance and volubility. The address read as follows:

"To the inhabitants of the District of Kentucky.

"Friends and Countrymen:

"Your representatives in convention having completed the important business for which they were specially elected, feel it their duty before they rise, to call your attention to the calamities with which our country appears to be threatened—*blood has been spilt from the eastern to the western extremity of the district*, accounts have been given to the con-

¹⁵ *Political Transactions* pp. 67-70; Marshall's *Kentucky* I:210.

vention from Post St. Vincennes, which indicate a disposition in the savages for general war; in the mean time if we look nearer home, we shall find our borders infested, and constant depredations committed on our property. Whatever may be the remote designs of the savages, these are causes sufficient to rouse our attention, that we may be prepared not only to defend but punish those who unprovoked offend us. God and nature have given us the power, and we shall stand condemned in the eyes of Heaven and mankind, if we do not employ it, to redress our wrongs and assert our rights.

"The Indians are now reconnoitering our settlements in order that they may hereafter direct their attacks with more certain effect, and we seem patiently to await the stroke of the tomahawk; strange indeed it is, that although we can hardly pass a spot, which does not remind us of the murder of a father, a brother or deceased friend, we should take no single step for own preservation. Have we forgot the surprise of Bryan's or the shocking destruction of Kinchelo's station, let us ask you? Ask yourselves, what there is to prevent a repetition of such barbarous scenes? five hundred Indians might be conducted undiscovered, to our very thresholds, and the knife may be put to the throats of our sleeping wives and children. For shame—let us rouse from our lethargy, let us arm, associate, and embody—let us call upon our officers to do their duty, and determine to hold in detestation and abhorrence, and to treat as enemies to the community, every person who shall withhold his countenance and support, of such measures as may be recommended for our common defence;—let it be remembered that a stand must be made somewhere: not to support our present frontier would be the height of cruelty as well as folly; for should it give way, those who now hug themselves in security, will take the front of danger, and we shall in a short time be huddled together in stations; a situation in our present circumstances, scarcely preferable to death—let us remember that supineness, and inaction may entice the enemy to general hostilities—whilst preparation and offensive movements will disconcert their plans, drive them from our borders, secure ourselves, and protect our property.

"Therefore, *resolved*, that the convention, in the name & behalf of the people, do call on the lieutenants or commanding officers of the respective counties of this district, forthwith to carry into execution the law for regulating and disciplining the militia.

"*Resolved*, That it be recommended to the officers to assemble in their respective counties, and concert such plans

as they may deem expedient for the defence of our country, or for carrying expeditions against the hostile nations of Indians."¹⁶

The rational attitude of the more intelligent Kentucky leaders about separation, and their unfavorable impression of Wilkinson's magniloquent addresses, appear in some of their letters. Thus Judge Wallace wrote to his friend and former Princeton College schoolfellow, Madison, then a member of the Virginia Assembly:

"I must confess I am not pleased with the Splendid Dress in which they are clothed, and wish the Substance of the Resolves had composed the Body of the Address, but hope that impropriety in form will not injure a Cause which I am anxious should be determined on the most friendly and liberal principles."¹⁷

The Kentucky request for separation met little or no opposition in the Virginia Assembly; for not only was the need of the

¹⁶ *Political Transactions* p. 71-2.

¹⁷ Sept. 25, 1785. Library of Congress, *Madison Papers* XIV:f.42. In another letter to Madison (Oct. 8, 1785) Wallace said:

"By Colo. Muter I troubled you with a short Line; and now have only Leisure to thank you for the Strictures on Government you were so kind as to favor me with. I have yet some other Queries on the Subject which I shall reserve for another Opportunity. At present I only beg leave to observe that [as] the Constitution of Virginia provides for the Separation, . . . An Act of Separation, I conceive, may direct the whole with but a little more difficulty than a Corporation is established; and so as to prevent a dangerous interval of Anarchy which must otherwise happen, The District has chosen a convention that is to continue till next April. The Elections though voluntary were made with propriety.

"This Convention I conceive may

be recognized and empowered to direct the Choice of another for the purpose of adopting a Form of Government and organizing it; and in the meantime it may be provided, that all Officers civil & Military shall continue to enforce the Laws of the present Government . . . with such exceptions as the case may require. This, or something in this Way may certainly be done with propriety. But I must confess, I find myself perplexed with real Difficulties of another Kind. Our Remote Situation and Other local peculiarities excluded us from the Advantages of equal Government whilst connected with Virginia and the Want of an Export Trade will render us incapable of defraying the Expenses of a Separate Government." (Id., p. 45.)

Several years later this doubt about Kentucky's ability to meet the expenses of a separate state government was strongly urged against separation.

Kentucky people for a government of their own apparent, but by the separation Virginia would be rid of her burdensome obligation to govern and defend them. Accordingly, on January 10, 1786, the Assembly passed an act¹⁸ providing for another (third) Kentucky convention in September of that year, to declare whether the people of the district desired a separation under the terms of the act. If they did, the convention was empowered to fix a day, prior to September, 1787, when Virginia's authority should cease, provided that before June 1st of that year Congress should assent to Kentucky's admission to the Confederation.

The separation act also provided:

"to the end that no period of anarchy may happen to the good people of the proposed state, it is to be understood that the said convention shall have authority to take the necessary provisional measures for the election and meeting of a convention at some day prior to the day fixed for the determination of the authority of this commonwealth and of its laws over the said district, and posterior to the first day of June [1787] with full power and authority to frame and establish a fundamental constitution of government for the proposed state, and to declare what laws shall be in force therein, until the same shall be abrogated or altered by the legislative authority acting under the constitution so framed and established."¹⁹

Pursuant to the act of separation, elections were held in August, 1786, for delegates to the third convention, to meet the next month at Danville.²⁰ Excepting in Fayette, the elections passed off quietly; but there two rival candidates appeared who were destined to bring about bitter personal and factional controversies to trouble Kentucky for more than a score of years afterward. One of these was General Wilkinson, the other Humphrey Marshall, who was a shrewd young lawyer-politician and chronic office-seeker with a morbid propensity for vindictive personal quarrel. The two met in debate at Lexington, where Wilkinson aroused the enmity of his opponent by treating him contemptuously and defeating him. Marshall attributed his defeat

¹⁸ Hening's *Statutes at Large* XII:37.

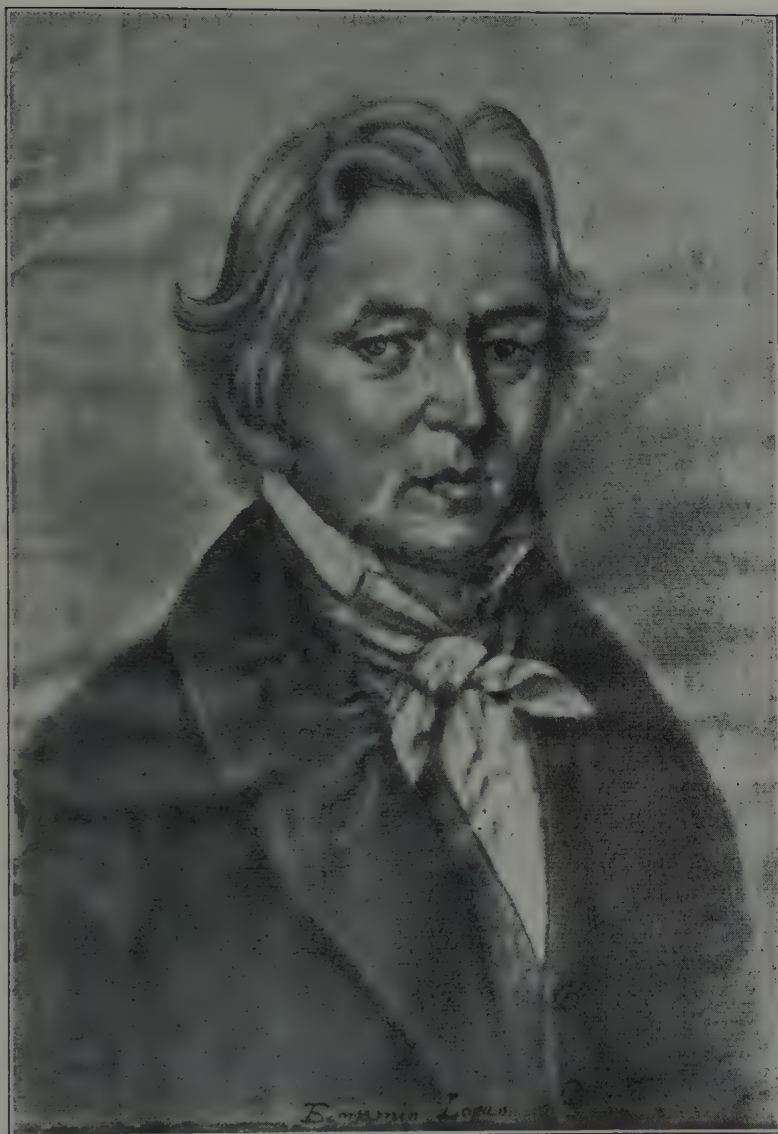
¹⁹ Hening's *Statutes at Large*, XII:37-40.

²⁰ Three new counties—Bourbon, Madison, and Mercer—formed by

subdividing Lincoln and Fayette—had meantime been created, so there were now seven counties, and five delegates were to be elected from each.

to an election trick, asserting that Wilkinson caused a militia muster to be held during the election which drew Marshall's supporters from the polls, while Wilkinson's absented themselves from the muster to cast their votes for him.

As directed by the act of separation, the convention delegates were elected in August, but on the day fixed by the act for their meeting at Danville—the fourth Monday in September—no quorum assembled. Impending danger from a great confederacy of Indians had necessitated an expedition against them, and most of the delegates-elect were too much engaged with military affairs to attend the convention. The result was there was no convention until in January of the next year, 1787—four months after it should have convened. Meantime, important events were happening elsewhere.



(Filson Club Collection)

BENJAMIN LOGAN
(1752-1802)

CHAPTER XXIV

WABASH EXPEDITION; WILKINSON'S INTRIGUES

It has been seen that early in 1784 nine commissioners were elected by Congress to treat with the Indians generally; and, very unwisely, the place fixed for meeting them was Albany, New York. Even in a time of general peace it was almost impossible to assemble representatives from a great number of tribes scattered over a vast territory; but at this time the Indians were confused and angered by Great Britain's desertion of them and attempt to transfer them and their lands to the United States. They knew the result of nearly all their treaties had been the same—a surrender of their lands for blankets, guns, ammunition, rum and baubles. They were naturally suspicious of the design of Congress and feared the meeting was a trick to draw them far from their homes.

After a time Congress itself seems to have realized the folly of attempting to hold this general treaty; and, after various changes of plans, three commissioners—General Clark, Gen. Richard Butler of Pennsylvania, and Mr. Arthur Lee of Virginia—were directed to treat with tribes north of the Ohio for lands there. The territory particularly coveted by Congress, and also by a syndicate of New England men who were planning to get from it a large body of the lands, lay in the southeastern part of Ohio, about the mouth of the Muskingum River. It embraced country which had formerly been occupied by the Delawares, before their removal to south-central Indiana, and was claimed by the Shawnees. It was the Shawnees, therefore, from whom a surrender was most desired, and earnest efforts were made to get them to attend the treaty meeting. It was held at Fort McIntosh on the Ohio, a few miles below Pittsburgh, in January, 1785;¹ but

¹ In full in Dillon's *History of Indiana*, appendix.

not a Shawnee would attend! Chiefs and warriors from the distant Wyandots, Delawares, Chippewas and Ottowas came, and they willingly enough granted to the United States a large part of the Shawnee country, of which they did not own an acre.

Of course such a grant gave no real title, but Congress, notwithstanding, proceeded to treat the Shawnee lands as duly ceded, ordered a large part of them to be surveyed, and provided for their sale.²

To get a better Indian title to the same lands, a treaty was ordered to be held with the Shawnees themselves. Those savages were wary, however, and it was not until a year passed that they could at last be induced to attend one. It was held in January, 1786, near the mouth of the Little Miami (Cincinnati), and it was most dramatic. For a time it seemed that, instead of treating with the commissioners, the savages would massacre them and their little guard; but Clark and Butler's daring conduct overawed and subdued them. The particulars are given fully elsewhere.³ The result was that the Shawnees acknowledged the United States as owners of nearly the whole southeastern half of Ohio, promised to give up their white prisoners, to keep the peace, and, as security for the performance of their agreements, surrendered five of their leading men as hostages.

They had no idea of keeping their promises, however. Twenty-three days later the hostages escaped, and soon afterward the Shawnees at large were joining the most powerful combination of north-western Indians since Pontiac's time, for the destruction of the whites in the Ohio Valley. It was known as the "Wabash Confederacy." Savage war had been breeding ever since the Indians learned that Great Britain had assumed to transfer them and their lands to the United States and that Congress was claiming the right to settle and dispose of them. By 1785 so many and destructive were the scattered Indian raids into Kentucky that, as already seen, the August convention that year adopted resolutions calling upon the militia officers to "concert such plans as they may deem expedient . . . for carrying expeditions against hostile nations of Indians."

² See ordinance for disposing of lands in the western territory, Mar. 20, 1785, *Journals of Congress* IV: 486 etc; Dillon's *History of Indiana* pp. 588-93.

³ Author's *George Rogers Clark*, pp. 268-75.

The particular expedition contemplated was against the Indians of the Wabash Confederacy; but as they lived outside of Virginia and in what had become national territory north of the Ohio, and as the government of Virginia had expressly forbidden such expeditions, these resolutions seemed to defy the authority both of the state and the United States. In 1786, however, Indian hostilities compelled the Kentucky people for self-preservation to carry such an expedition against them across the Ohio. Despite the state government's prohibition, therefore, the militia officers proceeded to organize one and called for volunteers. The old inter-county jealousies still existed, however, and it seems that no one of the county lieutenants could be agreed on for commander. All united in requesting General Clark to take command, but it was long before he would consent to do so.

Meanwhile Governor Henry, who had succeeded Governor Harrison, was greatly concerned about Kentucky's danger. He wrote Congress complaining that it was allowing its Indian subjects to slaughter the Kentucky people without making any real effort to stop them and demanded to know

“‘Will Congress defend & protect our Frontiers?’ If they will not I ought to know it quickly as possible. Otherwise the Lives of our Citizens will be the forfeit of the Indecision & want of Foresight, which I am sorry to say are too apparent in this Department of public Affairs.”⁴

Congress did nothing. It was loath to incur any expense to restrain the Indians, however necessary to protect lives and property in Kentucky. The truth was, most of its members were far more interested in the protection and disposition of the public lands north of the Ohio than in defending their fellow citizens of Kentucky.⁵

Realizing that little could be expected from Congress, Governor Henry and his council *directed* “the field officers of the different counties in Kentucky to concert measures for their own defense, taking as their guide in forming any military expeditions . . . the Sixth Article of Confederation.” This Sixth Article expressly reserved to each state the right to make war on these Indians provided “such state be actually invaded by enemies, or shall

⁴ William Wirt Henry's *Patrick Henry*, III:363.

⁵ *George Rogers Clark*, p. 280.

have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted." That Kentucky was being thus invaded was certain; that the danger was imminent was certain; and on the same day that Governor Henry sent his directions to the county lieutenants, he wrote informing Congress that the danger of the Kentucky people was "*such . . . as to make an expedition against the Wabash towns necessary for their preservation,*" and that "*it will probably take place*".⁶ Congress made no objection to the expedition until long after it was over, and then with no sort of justification.

Before Governor Henry sent the county lieutenants authority for an expedition, the militia officers had made considerable progress in organizing one composed entirely of volunteers who would bring their own horses, provisions, guns and ammunition, and be likely to prove willing and efficient soldiers. General Clark after a time consented to command them; but when, under the governor's authority, this expedition of volunteers was abandoned for another to be made up of drafted men supplied by impressments, the general would not consent to command it. Not only would such drafted men be likely to prove unfit and sulking soldiers, but under the militia law they could not be lawfully carried out of the state without their consent. If taken across the Ohio into the enemy's country, they could obey orders from their commander, or disobey them, as they chose; for they could not be legally punished for disobedience, desertion, or any other offense.

Naturally General Clark wished to lead no such army, and even after it was organized and had crossed the Ohio to the rendezvous (September 10th) at Clarksville, opposite the Falls, he refused to take command. Some twenty-five hundred men were expected there, but so many had avoided the draft that only about twelve hundred appeared. Discord and sulking prevailed from the beginning to such a degree that an abandonment of the expedition seemed imminent. Some fifteen hundred war-mad Indians, however, were known to be gathered on the Wabash, only about

⁶ Virginia State Library, *Governor's Letter Book* p. 500-503; Library of Congress: *Continental Con-*

gress, Letters of H. Knox, Sec'y, No. 150, II:37, 39, author's italics.

a hundred and fifty miles northwest of Clarksville and some eighty-five above Vincennes; and for the army to disband would plainly invite widespread destruction of that town and of homes and lives in Kentucky. Therefore General Clark waived his objections and took command. He at once sent Colonel Logan back to Kentucky to gather deserters, draft all the remaining militia, and attack the Shawnees in Ohio, in order to draw off their warriors from the Wabash. This Logan easily did, for the men of his county were much more willing to march against the Shawnees than against the more distant and formidable northwestern Indians. With an army of seven hundred and ninety men, Logan fell upon the Shawnee town, whence nearly all the warriors had gone to the Wabash to meet the army under Clark. Without the loss of a man, some ten Indians were killed, and thirty-two women and children taken prisoners to Kentucky:

At Clarksville General Clark urged an immediate march northwest against the Indians, who were assembled about a hundred and fifty miles northwest near the Wabash River; but the officers of the Lincoln troops, who had been brought by Logan and left under command of one Colonel Barret, insisted that the army be marched nearly a hundred miles almost due west to Vincennes and there await the coming of extra provisions which could be sent there by boats going down the Ohio and up the Wabash. The supply on hand was ample for a direct march against the enemy, for they sufficed to feed the army during a seven days sluggish march to Vincennes, eight days there awaiting the boats, and two days more after leaving that place. The fact was, the drafted Lincoln men did not want to carry provisions on their backs in hot September weather, nor to meet the enemy.

The details of the later course of the expedition have been set forth by the present writer elsewhere,⁷ and will be only briefly summarized here.

As the disgruntled men from Lincoln made up about half the army, there was nothing to do but give up the direct march against the Indians and go to Vincennes, or else give up the expedition and return home. To conciliate the Lincoln men the army was therefore marched to Vincennes.

⁷ *George Rogers Clark*, pp. 276-306.

"Col. Levi Todd commanded the Fayette troops, . . . Major Barret commanded the Lincoln men." "During the march, at a place called French Lick, there was a meeting of the whole of Col. James Barret's command, respecting a horse which had been taken for the adjutant-general to ride. The Whole of them fired off their guns in defiance of the orders of the Genl, by which the horse had been taken. The Colonel, however, was arrested, tried, and Repremanded, which delayed us for a few hours; we then marched on."⁸

During the remainder of the march to Vincennes, and while the army was there, the insubordination of the Lincoln men grew, until they debated whether they would obey orders to march further; but they did so. One of the soldiers said:

"Moved up from Vincennes and, a half day's march, crossed over to the east bank and progressed to about — miles, estimated, from Vincennes, when Barret's men mutinied & went back; they complained that the provisions would soon give out and that there was only beef still left."⁹

This food shortage, which was not at all serious, was the only excuse they gave for their conduct at the time; and they had caused it themselves.

Capt. Moses Boone, a nephew of Daniel, wrote:

"After about two days march from Vincennes, the Lincoln men revolted and started back—called Loganites. A large circle was formed of the remainder of the troops, and a general council held; some proposed to go and force back the Lincoln men—others urged the continuance of the campaign with what was left."¹⁰

Captain Gaines, of the mounted volunteers from Fayette, said:

"We were surprised by hearing the cry of 'Who's for home? Who's for home?' from the same troops who had fired off their guns at French Lick, which was nearly half the Army, who actually marched off, headed by an Ensign—other officers choosing to await the result of what should be determined on, although a Majority of them had determined the night before to return home. . . . As no solicitude could induce those troops to return to their duty, the whole re-

⁸ Statement of Capt. Craig of the Lincoln militia, *Draper MSS* 9 J 134.

⁹ *Draper MSS* 23 J 123.

¹⁰ *Id.* 9 J 237. Moses Boone became an esteemed judge of Indiana.

turned to [Vincennes] in the greatest confusion, and then, by sixes, tens, or dozens, as inclination prompted, to Louisville."¹¹

To the people of Vincennes this disgraceful collapse of the expedition was appalling. Their fort had very recently withstood a three-days' siege by several hundred of these savages, but now they feared being left unassisted to contend with many more hundreds of them. In this situation, General Clark called the officers of the loyal troops in council to determine what should be done; and they unanimously resolved to enlist men to garrison the town. To feed them, however, was a serious problem. The inhabitants were dreadfully poor and hardly able to support themselves. To impress their scant supplies for the garrison seemed cruel; yet without a garrison the lives of all would probably have been forfeit. This desperate condition was relieved, however, by the arrival of a Spaniard with a cargo of supplies from New Orleans. The officers' council ordered it impressed to support the garrison, which was done.

Meanwhile the Indians were waiting to see whether all the troops would leave Vincennes for Kentucky, and no doubt were planning to fall upon straggling bands as they went; but finding that a considerable number remained to garrison the town, and being always loath to leave their own towns when an enemy was near, and averse to besieging a fortified enemy, they delayed offensive steps for a time. This delay gave opportunity to save both the straggling mutineers returning to Kentucky and the people of Vincennes. General Clark and the leading citizen of the town, Colonel Le Gras, took prompt advantage of it. By bold acting on Clark's part, and by a most ingenious and deceptive speech of Le Gras, the savages were led to believe that Clark was still formidable, and that he had only consented to abandon his march against them and return to Vincennes because of the earnest appeals of their French friends. Le Gras warned the savages that they would find peace better than war, and sent them a bold speech from Clark offering them their choice of peace or war.

The result was an answer begging peace! A truce was then agreed and a treaty meeting fixed for the next April at Vincennes. The disgraceful mutiny was thus actually turned into an advan-

¹¹ Id. 9 J 238.

tage; the most formidable Indian invasion that ever threatened Kentucky, after Bird's in 1780, came to naught.

Although, despite the state's prohibition, Wilkinson had been the first and violent advocate of an expedition against these Indians, and although he was young, vigorous, experienced in military affairs, and intensely ambitious for military distinction, when the expedition was organized he did not join it! This seems very strange, but he had vaulting plans which forbade his doing so. He was nursing a scheme to get rich by treasonable proposals to Miro, the Spanish governor of Louisiana.

Spain's prohibition of American use of the lower Mississippi after the Revolution has already been seen. Thenceforth for nearly twenty years the subject of supreme interest to the Kentucky people was their demand for the free navigation of the great river; yet, when some of them attempted to use it, they were arrested by the Spaniards and their cargoes confiscated.

This situation was unbearable. Naturally they were incensed, and as year by year they found Congress indifferent to their interests and doing nothing to compel Spain to open the river, many were infuriated, and some talked of driving the Spaniards from Louisiana.

In this unrest Wilkinson saw his opportunity to get a profitable privilege to trade with New Orleans. He planned to send a boatload of Kentucky produce to New Orleans and also to go there himself. He knew the Spaniards there greatly feared the western Americans, and he designed to interview Governor Miro and alarm him by fictitious reports that they were raising a great army under General Clark to seize New Orleans. He would suggest to Miro, however, that so vital to them was the navigation of the Mississippi that in order to secure it they would willingly secede from the United States and become Spain's allies; and furthermore, that his own political and military influence was so great that, with Miro's coöperation, he could prevent the impending invasion, bring about Kentucky's secession, and "throw it into the arms of Spain." Professing to be moved only by a desire to relieve his suffering fellow Kentuckians, he would offer to do this; and to prove his good faith, would expatriate himself and take an oath of allegiance to Spain. In return for his traitorous services, he would only ask for an exclusive privilege of trade with New Orleans until the Kentuckians should secede from the Union and

form the alliance. Their anxiety to share the trade privilege, he would suggest, would hasten their secession.

To satisfy Miro of his ability to accomplish what he proposed, however, Wilkinson had to show that his political influence in Kentucky was great enough to bring about its secession, and also that he had become the dominant military leader of the western Americans and strong enough to resist any effort Congress might make to coerce them. But General Clark stood in his way, for he was known in Louisiana to be the unrivaled American military leader of the West. To dispose of Clark, therefore, Wilkinson, before leaving for New Orleans, proceeded to concoct apparent proofs to discredit his rival and show that he (Wilkinson) had supplanted him in military leadership. This he did by making up forged papers and taking them and others apparently vouching for them to Miro.

The whole plot was worked out with extraordinary skill and with astounding audacity. Its success was predicated upon the ignorance of Miro and others who were to be deceived; for Wilkinson knew that communication was then so slow, uncertain and unreliable that occurrences in one part of the western country were often unknown in another part for weeks or months afterward, and east of the Alleghenies, or in New Orleans, were rarely known at all.

Space forbids a detailed account of the plot here, but it is set forth fully, with the fabricated writings Wilkinson used to further it, in the author's biography of General Clark.¹² Here it must suffice to say that Wilkinson's fabricated writings taken to Miro *seemed* to show (1) that General Clark was raising a great army to invade Louisiana (when he had no command, nor a single soldier); (2) that he was given to drink and "utterly unfit for business of any kind" (when he was successfully displaying rare self-possession and generalship); (3) that Spanish property at Vincennes had been illegally seized by his officers; (4) that the salvation of the Kentucky people depended on the appointment of a more capable commissioner of Indian affairs than General Clark to handle the hostile savages; and lastly, (5) that promi-

¹² *George Rogers Clark: His Life and Public Services* (Houghton Mifflin Co. 1926.)

nent Kentuckians recommended Wilkinson for that post as "well qualified for the purpose and against whom no exception can be taken!" Holding that post, the traitor would be the chief active military officer of the United States, since only Indian hostilities required the use of troops.

With these fabricated writings Miro was completely fooled, with results soon to appear.

In view of the Virginia act of separation, the prospect of statehood for Kentucky, and the need for a suitable constitution for the new state, a number of leading Kentuckians, late in December, 1786, formed a club to discuss political problems concerning their district and the principles upon which the constitution should be based. The first meeting was held at the residence of Judge McDowell in Danville. In 1878 the club's minute-book, kept by the secretary, Thomas Speed, and containing the record of its proceedings, the questions discussed, and the decisions reached upon them, was found by Mr. Thomas Speed, the secretary's grandson, and the next year published by the Filson Club under the title "*The Political Club*."¹³

The minutes show a large range of careful inquiry into the

¹³ *The Political Club*, Filson Club Publications No. 9, (John P. Morton & Co., Louisville). Mr. Speed thus describes the finding:

"So far as the records disclose the club had an existence from 1786 until 1790. Its secretary was Thomas Speed. . . . His methodical habits led him to put up the records of *The Political Club* in a package, label it "*Political Club Papers*", and place them in a drawer of his secretary with other papers which had served their purpose and were not likely to be wanted. He probably did this when the club ceased to meet, which was in 1790. The papers were discovered by the present writer in the year 1878. They had, therefore, remained untouched for eighty-eight years. Examination of the package showed that it contained the records of a society of which no living person had any in-

formation. . . .

"An account of the discovery was published by the present writer in September, 1878, in the *Louisville Commercial*, which was copied by other newspapers in Kentucky. The *Commercial* then said editorially:

"The existence of the *Political Club* is not mentioned in any history, and so far as we know there is no tradition of it, and, except for the discovery a few weeks ago of the papers of the club, all memory of this truly remarkable association of men would have been lost entirely. The records are now nearly one hundred years old. They have been preserved in a drawer of an old desk which belonged to the secretary of the club. They alone perpetuate the memory of the *Political Club*." (*The Political Club*, pp. 34-6.)

great problems of republican government. As they indicate, perhaps better than any other extant contemporary document, the intellectual calibre and political ideas of a considerable and influential coterie of Kentucky men of the time, it will be well to see some few of the questions they discussed and decisions they reached.¹⁴

The first (December 30, 1786) was "whether the immediate navigation of the Mississippi River will contribute to the interest of this District, or not," and it will probably surprise the reader to learn that the question was decided in the negative. As Mr. Speed suggests, no doubt the word "immediate" in the resolution affords the explanation, for it is certain that the Kentucky leaders never wavered in their insistence on the right of navigation and the vital need for it.

The next question discussed by the club (January 6, 1787) was "whether an immediate separation of this District from Virginia will tend to its benefit," and it was resolved in the affirmative. A week later the subject debated was "The propriety of separating this District from the State of Virginia upon the act entitled 'An act concerning the erection of the District into an independent state'," and the club resolved that the separation "upon the terms prescribed in the act" would benefit the district. These resolutions touching separation were passed before there was any meeting of the Kentucky convention which had been called for the preceding September.

The next debate was on the question "Whether representation [in the new state government] by numbers, or by counties is to be preferred;" and, although the members had always been used only to the Virginia method of representation by counties, without regard to population, the club resolved in favor of representation by numbers. This rule was later adopted in framing the first constitution of Kentucky.

Early in 1787 the club appointed a committee "to prepare a Bill of Rights and Constitution" for Kentucky. The provision for a bill of rights was to have been expected; for George Mason's famous one had been incorporated into the Virginia Constitution

¹⁴ This is amply and well done by Mr. Speed in *The Political Club*, but as that work is out of print, expensive, and now rather rare, and as few of the Club's debates are mentioned in any general history of Kentucky, it has been deemed well to set them forth in this one.

eleven years before, was looked upon as a Magna Charta by the Virginia people, and was of course familiar to every Kentucky leader. In the present connection, the significance of the club's resolution is that it tends to explain the vote of the Kentucky delegates, over a year afterward in the Virginia Convention, opposing the adoption of the Federal Constitution without amendments containing the substance of Mason's bill of rights.

To one who is familiar with the governmental problems Kentucky was actually about to encounter, some of the subjects chosen for discussion which may seem only academic will be found of very practical importance, and their decisions far in advance of the political philosophy then generally accepted in America. Thus they "Resolved that the Indian tribes cannot, consistently with the laws of nature and nations, be deprived without their own consent, of the exclusive right to the territory claimed by them." The remarkable feature of this conclusion is that, when probably nearly every member of the club had lost some near relative or friend by recent Indian warfare, and all at this time were fearing an Indian invasion of Kentucky's "scattered settlements in such force as to overwhelm them,"¹⁵ these men could calmly consider the rights of the Indians.

Again, although there were then ten crimes punished with death in Massachusetts, twenty-seven in Virginia, and many in other states, the club "resolved . . . that capital punishment ought not to be inflicted for any other crimes than murder or treason." It declared expatriation "a natural and inalienable right"—a theory of Jefferson, afterward adopted by the United States, which holds it to be an "inherent right of all people and indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness; and any declaration questioning this right is inconsistent with the fundamental principles of the Republic."¹⁶

Long before the Supreme Court of the United States exercised the right to pass upon the constitutionality of a federal legislative act, and even before the convention which framed the Federal Constitution met, the Political Club in the little-tamed wilderness

¹⁵ *George Rogers Clark*, *supra*, p. 1868; *Harper's Encyclopedia of United States History*, Volume III, 401.

¹⁶ See Act of Congress July 27, "Expatriation."

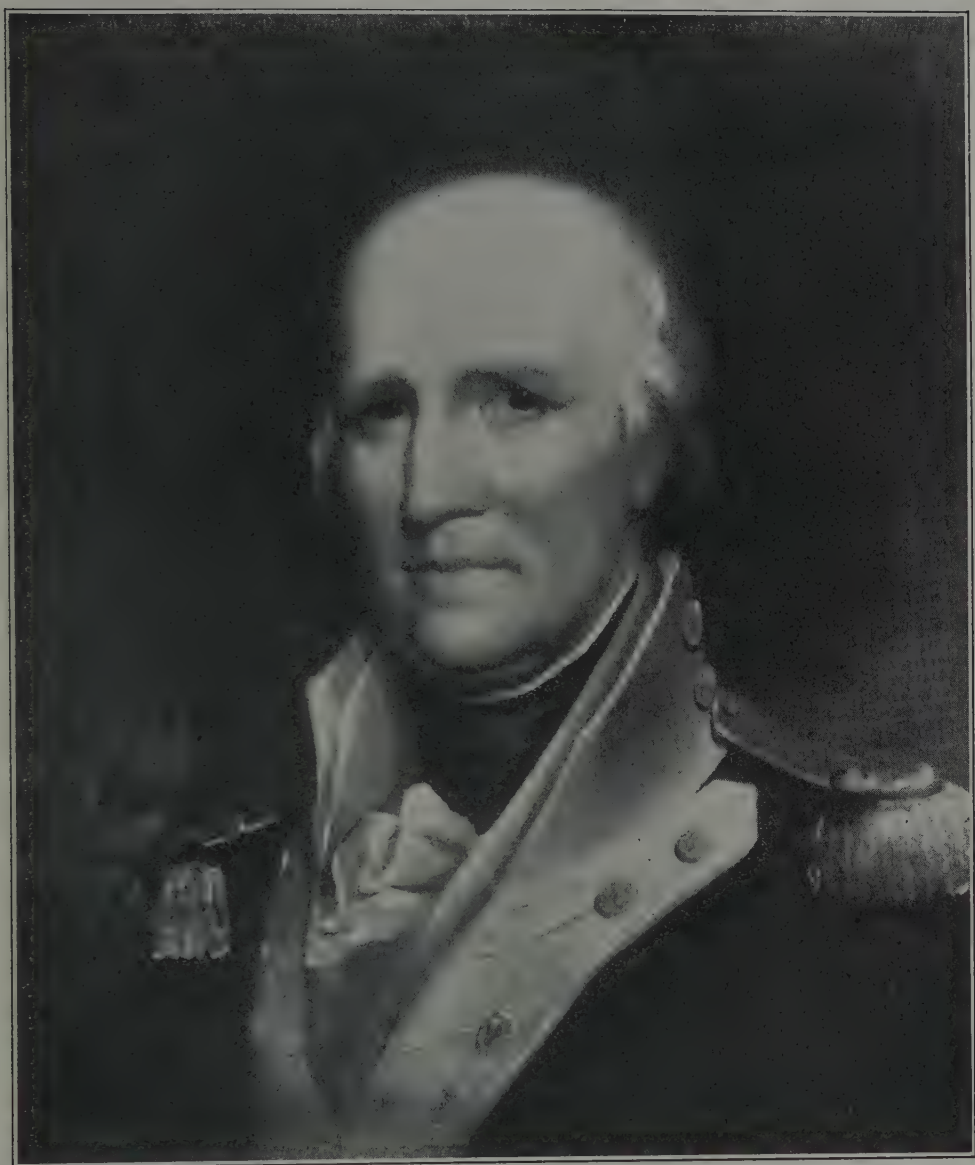
of Kentucky earnestly debated the question "If an Act of Assembly should be contrary to the Constitution, which ought to govern a judge in his decision?" The discussion lasted from 3:00 o'clock in the afternoon until midnight with the result that the club resolved "The judge ought to govern his decision by the Constitution." In view of recent attacks upon this established and most necessary judicial power,¹⁷ this early vindication of it is interesting.

Mr. Speed justly says of the club:

"A pleasing light is thrown upon the character of the pioneers by the records of The Political Club. In the various papers they drafted, in the minutes of the club meetings, and in their letters there is a cultivated diction and an excellence of handwriting, contrasting strongly with ideas suggested by the simplicity of living in their rude log cabins, dressed in homespun and buckskin, and fighting Indians." "The subjects discussed show the practical and timely character of their deliberations. The minutes of their meetings show the seriousness and dignified gravity of men who were in earnest and felt the weight of responsibility. It is evident that they were imbued with a consciousness that upon them was cast the work of securing for the inhabitants of Kentucky a government adapted to their wants and necessities."¹⁸

¹⁷ During the election campaign of 1912 ex-President Roosevelt contended that the Constitution should "march" with the will of the people, and that although a supreme court might properly declare a statute unconstitutional and void, yet if a new legislature, elected after popular discussion of the statute, should reenact it, then the court should bow to the will of the people, reverse its former decision, and declare the act *constitutional*! In other words, the construction of a constitution should be left to the votes of the people and legislature, and not to a supreme court!

¹⁸ *Political Club*, pp. 32 and 40. The members listed by Mr. Speed from the club minutes were: "Harry Innes, Christopher Greenup, John Brown, Robert Craddock, Thomas Todd, John Belli, G. J. Johnston, George Muter, Peyton Short, Stephen Ormsby, Thomas Allin, Thomas Speed, Abe Buford, John Overton, Jr., David Walker, Samuel McDowell, William McDowell, Benjamin Sebastian, Baker Ewing, P. Tardeveau, William Kennedy, Willis Green, James Speed, Matthew Walton, William McClung, James Brown, Robert Dougherty, Joshua Barbee, James Overton, James Nourse." (Id. p. 38.)



(Matthew Jouett's Portrait, Filson Club Collection)

GEORGE ROGERS CLARK

CHAPTER XXV

STATEHOOD: JAY AND MISSISSIPPI NAVIGATION

It has been seen that no quorum of delegates to the convention which had been called for September, 1786, appeared during that year. At last, late in January, 1787, there was one and the convention assembled. Colonel McDowell was again made chairman and the convention unanimously adopted a resolution declaring it "*expedient for and the will of the good people of the district that the same should become a state separate from and independent of Virginia, upon the terms of the act,*" which act, as already seen, provided for admission of the new state into the Confederation.

The action of this third convention was futile, however, for soon after this resolution was passed the members learned that the act of separation had been repealed! The Assembly had passed a second act calling for another election of delegates to still another (fourth) convention, to meet in September, 1787, to pass again on the question of separation. Great dissatisfaction was felt over this course of the Assembly, but the new act did not repeal the first one, although it changed the time limit for separation to January 1, 1789, and for the assent of Congress to the admission of the new state to July 4, 1788.

The feeling in Kentucky when the news of this second act of the Virginia Assembly was received is thus described by Littell:

"Hitherto the question relative to a separation had been conducted with much coolness and moderation. But the disappointment and mortification produced by this conduct in the government of Virginia strongly affected the public mind.

"The people saw in this measure the much desired separation placed on the same footing in which it stood twelve months before. The object in view was now at least as remote as it appeared then, and might be more so, for the same legislature which had repealed the former law, might

in the same stage of proceedings repeal the present, and the pretences equally plausible for so doing could readily be found. But while the separation was postponed to an indefinite period the evils and inconveniences which had suggested the necessity of it and produced the application for it, were hourly increasing, and it was obvious must continue to increase.

"The members of the convention solicitous to soothe the popular mind, and preserve peace in the country, discontinued their deliberations, and returned to their respective counties. But they were far from being satisfied with the defeat of a measure on which they were convinced that the prosperity and probably the existence of their country eminently depended."¹

But the Kentucky people soon received news which excited them far more than the delay of separation. They were told that a northern majority in Congress was about to authorize a treaty with Spain surrendering their right to the free navigation of the Mississippi for twenty-five or thirty years! This they felt would mean ruin for Kentucky, the rotting of its unmarketable surplus products, a complete arrest of immigration, and a great exodus of its inhabitants.

The scheme of surrender was the work of the adroit Gardoqui, the minister of Spain. His mission in New York was to secure Spanish Louisiana against the growing power of the United States in the Mississippi Valley, by leading Congress to an act which would so incense the western Americans as to make them break away from it and ally themselves with Spain. The policy he pursued to accomplish this aim was certainly a most shrewd one; and it came dangerously near wrecking the tottering American Union.

Two years before (August 25, 1785) Mr. Jay had been empowered by Congress to negotiate with Gardoqui a treaty with Spain, but his powers were restricted by an express instruction "*particularly to stipulate the right of the United States to their territorial bounds and the free navigation of the Mississippi from the source to the ocean.*"

When they came to negotiate, Gardoqui offered a commercial treaty which would open various Spanish islands to American

¹ *Political Transactions*, p. 17.

vessels and trade. He was well aware that nothing could better please our northern merchants and ship owners; for their business had been paralyzed by exclusion from such foreign possessions, and they would see great fortunes in the West Indian trade.

Gardoqui required, however, a very valuable consideration for the commercial privilege which he offered; and this was nothing less than an acknowledgment of Spain's ownership of the lower Mississippi and right to exclude Americans from it. At this Jay balked, and the negotiations lagged. Finally Gardoqui indicated he would be satisfied with a provision in the treaty whereby the United States would agree to forbear to use the river for twenty-five or thirty years. On August 3, 1786, Jay recommended to Congress the making of such a treaty, and a determined conflict followed. Tempted by the commercial advantages they would gain by it, all the seven northern states strongly insisted that Jay be directed to make the treaty with the forbearance clause. Maryland and the four states south of her as strongly opposed it. Delaware was not represented.

The seven northern states found a snag in their way, however, for the Articles of Confederation contained this express provision: "*Congress shall never . . . enter into any treaties . . . unless nine states consent to the same.*" To evade this provision, the northern states thereupon passed, by a vote of *seven*, 'a resolution offered by Rufus King of Massachusetts to repeal *so much only* of Jay's previous instructions as required him "particularly to stipulate the right of the United States to . . . the free navigation of the Mississippi!"²

This was manifestly a political trick and was roundly denounced as such by the southern members. Northern ones, however, had the temerity to insist that the repeal by their seven states of the restriction which *nine* states had placed on Jay's authority left him free to negotiate a treaty by which the United States would agree to forbear to use the Mississippi.

Under a rule of Congress, discussions of treaty matters were required to be kept secret. Mr. Pinckney of South Carolina moved:

² *Secret Journal of Congress*, IV: 84, 127.

"that the injunction of secrecy be taken off so far as to allow the delegates in Congress to communicate to the legislatures and executives of their several states the acts which have been passed and the questions which have been taken in Congress respecting the negotiations between the United States and His Catholic Majesty."³

Every northern state represented voted against this motion, and it was defeated. Despite this, however, the proceedings leaked out and the report was spread everywhere that by seven votes the northern states in Congress had passed a resolution to effect the Jay-Gardoqui treaty with the forbearance clause. At once a well-nigh universal demand for the treaty arose in the north. In the south the news aroused everywhere an indignant protest. Patrick Henry said he would rather give up the Confederation than the navigation.⁴

The western people were infuriated to find their vital navigation right about to be bartered away to serve the shipping and commercial interests of the North. But if they felt they would be ruined if the treaty were made, northern people believed they would be if the treaty were not made. Their shipbuilding and trade were stagnant, their taxes onerous; in Massachusetts Shay's Rebellion threatened to overthrow government and bring about chaos; the commercial treaty offered them their one hope of relief, and many demanded New England's secession from the Union if it were rejected.

The attitude of the Kentucky people about the treaty is stated in Littell's *Political Transactions* thus:

"It was evident that this measure had nothing less in view than the absolute sacrifice of every interest of the western countries, to promote the prosperity of the eastern states. But if the thing did not speak for itself some members of congress spoke sufficiently explicit for it; one in particular from Massachusetts who held a high rank in political life, and possessed the confidence of government in an eminent degree, had declared on the floor of congress, that it would give him real pleasure to see the ocean wash the western foot of the Allegheny hills. And the account of the proposition was accompanied with information that seven states

³ Id., IV:131.

⁴ John Marshall to A. Lee, *Life of Arthur Lee*, II:301.

approved it. This intelligence was received at Danville during the session of the Supreme Court for the district, where a considerable number of people were attending. They took the matter into immediate consideration and appointed a committee to communicate the information to the people at large, and recommended to them to elect five representatives from each county, to meet at Danville in the May following, and take into consideration the proposed cession of the Mississippi. Several members elected in consequence of this recommendation, attended at Danville on the day appointed, and after a conference of several days, adjourned without adopting any measures respecting the matter. The reason was because they learned that the legislature of Virginia had entered into several resolutions on the subject, expressed in strong language, and had instructed her delegates in congress to oppose the cession.”⁵

Of these resolutions two read as follows:

“Resolved unanimously, That the free use and navigation of the western streams and rivers of this commonwealth, and of the waters leading into the sea, do of right appertain to the citizens thereof, and ought to be considered as guaranteed to them by the laws of God & nature, as well as compact.

“Resolved unanimously, That every attempt in congress, or elsewhere, to barter away such right, ought to be considered as subversive of justice, good faith, and the great foundations of moral rectitude, and particularly of the principles which gave birth to the late revolution, as well as strongly repugnant to all confidence in the federal government, and destructive to its peace, safety, happiness, and duration.”⁶

The committee referred to in the foregoing quotation from Littell issued a stirring address to the Kentucky people to arouse such a protest against the proposed surrender of their right of navigation “as may convince Congress that the inhabitants of the western country are united in the opposition, . . . and will not tamely submit to an act of oppression which would tend to a deprivation of their just rights and privileges.”⁷

Maryland, Virginia and other southern states vigorously protested against the threatened action of Congress. The proposed Jay-Gardoqui treaty was not made, however, nor was this due to protests from any state or people, but to General Wilkinson.

⁵ Page 18.

⁶ Id. pp. 79-80.

⁷ Id. p. 78.

Congress received copies of Wilkinson's fabricated writings already mentioned, showing General Clark gathering a great imaginary army to invade Louisiana, and the members were thrown into a great panic, fearing the irate westerners were bringing on a war with Spain. They swallowed Wilkinson's ingenious array of falsehoods at a gulp, and supposed General Clark was at Vincennes enlisting many troops. In fact, he had left that place months before; there was not a single enlisted soldier there; the small garrison he had enlisted had long since disbanded for want of food; and he was at the Falls of Ohio, not only without command of a great army, but with no command at all!

Uncertain what to do to mollify His Catholic Majesty and avoid war, Congress referred the Wilkinson papers to Mr. Jay. He too was evidently much alarmed and in his report said:

"He presumes the design of Congress, in referring these papers to him, was that he should report only on such matters stated in them as respected foreign affairs. It appears from the act of the Council of Virginia, on 28th February last, 'that General Clark hath made a seizure of Spanish property without any authority for that act,' and that the executive of that commonwealth hath, with great propriety, directed such steps to be taken 'as may subject to punishment all persons guilty in the premises.' . . . From the temper visible in some of the papers sent from the western country, as well as from the intelligence they convey, your secretary apprehends that the period is not distant when the United States must decide either to wage war with Spain, or settle all differences with her by treaty, on the best terms in their power."⁸

Mr. Jay next recommends that Congress express its "concern and displeasure . . . that certain citizens of Virginia have, in violation of the laws of nations, and of the peace and dignity of the . . . United States, violently seized the property of certain subjects of his Catholic Majesty at fort St. Vincennes" and that notice of the resolution be sent to the minister of Spain. The report continued:

"Your secretary is convinced that the United States have good right to navigate the river, from its source to and

⁸ *Secret Journal of Congress*, IV:
301.

through its mouth; and, unless an accommodation should take place, that the dignity of the United States and their duty to assert and maintain their rights, will render it proper for them to present a memorial and remonstrance to his Catholic Majesty, insisting on their right, complaining of it being violated, and demanding, in a temperate, inoffensive, but at the same time in a firm and decided manner, that his Majesty do cease in future to hinder their citizens from freely navigating that river through the part of its course in question. Your secretary is further of opinion, that in case of refusal, it will be proper for the United States then to declare war against Spain. There being no reputable way between peace and war, it will be expedient to prepare without delay for the one or the other, for circumstances which call for decision seem daily to accumulate.

"If Congress conceive that a treaty with Spain on terms proposed be eligible, the sooner such sentiments are communicated to your secretary the better. If an idea of obtaining better terms should be entertained, the sooner the question can be decided the better. . . .

"With respect to prescribing a line of conduct to our citizens on the banks of the river; your secretary is embarrassed. If war is in expectation, then their ardour should not be discouraged, nor their indignation diminished. But, if a treaty is wished and contemplated, then those people should be so advised, and so restrained, as that their sentiments and conduct may as much as possible be made to quadrate with the terms and articles of it. . . .

"He also takes the liberty of observing, that a treaty, disagreeable to one half of the nation, had better not be made, for it would be violated; and that a war, disliked by the other half, would promise but little success, especially under a government so greatly influenced and affected by popular opinion."⁹

Thereupon Congress passed the following utterly futile resolution:

"Resolved, That the Secretary of War direct the commanding officer of the troops of the United States on the Ohio, to take immediate and efficient measures for dispossessing a body of men who have, in a lawless and unauthorized manner, taken possession of Post St. Vincents, in defiance of the proclamation and authority of the United States, and that he employ the whole, or such part, of the force at

⁹ Id.

his command, as he shall judge necessary, to effect the object."¹⁰

Then, evidently to mollify the supposedly belligerent western army of invasion, and also the disappointed northern advocates of the commercial treaty, Congress adopted a resolution to send Jay to Madrid to negotiate for both navigation and commercial treaty. Nothing, however, was done or perhaps even expected to be done, under the resolution.

The plot of Wilkinson to overthrow and succeed General Clark and fool Miro, and the panic it caused in the Virginia government and in Congress, would make an amusing subject for comic opera. But the plot had mighty results. It ruined General Clark; it killed Jay's treaty with Gardoqui; it saved the navigation of the Mississippi; and in all probability saved the American Union, for Patrick Henry doubtless voiced the sentiment of the southern and western people when he said he would rather give up the Confederation than the navigation of the Mississippi.

Here it should be said that for nearly a hundred and fifty years the southern and western people have resented Mr. Jay's recommending a long forbearance of the navigation of the Mississippi. They have failed to appreciate the difficulties of his situation and the motives which led him to do so. No other man had fought so long or so hard for our navigation right; but he recommended the treaty to save the tottering American Union and make possible the adoption of a strong Federal Government. He realized the danger of disruption threatening the weak and discredited Confederation if the impoverished and restive northern people were denied the commercial advantages which the treaty promised them. Shay's Rebellion, let it be remembered, was then rampant in Massachusetts; throughout the northern towns trade was paralyzed for lack of markets, and disaffection to the Union alarming. The pinch of poverty makes almost any people oppose a government which they think ignores their economic interests. The belief is still held, however, by many people in the Mississippi Valley that John Jay was no friend to their section.

Littell says:

¹⁰ Id. IV:328. That the garrisoning of Vincennes was not lawless or unauthorized, but was perfectly le-

gal, is shown at length in the author's *George Rogers Clark*, 279-82; 300-1.

"The dismal prospect held out to them by Jay's projected treaty, [was] only a part of the troubles of the people of Kentucky at this time. In the spring of this year, the Indians infested and seemed likely to overrun the whole country. Great depredations were committed in almost every quarter. Congress, tho' repeatedly urged by the executive of Virginia, pertinaciously refused to afford the people any protection, and without assigning any reason for the measure, disbanded the troops which had apparently been raised for that purpose. . . .

"Indian hostilities encreasing, the county lieutenants of Lincoln, Fayette and Jefferson had a meeting on the 17th day of May, and forwarded by express a memorial on the subject to the executive of Virginia. In June the executive returned for answer that he would forward to congress the letters and papers received from the county lieutenants; and, for protection in the interval, he ordered them to convene and adopt some mode of defence for the district. This might have been productive of some good had it not been accompanied with a positive injunction that the troops embodied for the purpose of defence should *on no occasion go without the limits of the state except in immediate pursuit of an invading enemy*.¹¹ . . .

"Kentucky exhibited a frontier of [about 1500] miles. . . . To keep a perpetual watch on such a frontier would have been impracticable if every man in the district had been furnished with arms, ammunition, and provision, and had no other business to attend to. By virtue of these orders the people were compelled to remain inactive . . . until the Indians had collected and united all their strength, arranged their mode of attack, and made every possible provision

¹¹ "The Lieutenant Governor laid before the board letters which came to him by express, from the county lieutenants of Lincoln, Jefferson and Fayette, giving information that the western Indians had lately and at different times, committed hostilities on the inhabitants of Kentucky.

"Whereupon, it is advised, that copies of the several letters and papers, be forwarded to the delegates of this state in Congress.

"That Colonel Benjamin Logan be directed immediately to convene

the county lieutenants or commanding officers of the different counties composing the district of Kentucky, and with their advice, to form some system for the defense of that district; cautiously avoiding offensive operations, and taking care that the troops, which it may be necessary to embody, for carrying into execution any plan of defence that may be adopted, *do on no occasion go without the limits of the state, except in the immediate pursuit of an invading enemy.*" (Id. 82-3.)

therefor. But when the Indians thus embodied, organized and arrayed, had marched into their country, they were allowed the privilege of driving them out—if they could.”¹²

In August of this year, 1787, John Bradford, a native of Fauquier County, Virginia, established at Lexington the *Kentucke Gazette*,—the first newspaper west of the Alleghenies except one at Pittsburgh.

“The matter for the first number was set in type on board of a flatboat while descending the Ohio River to Limestone (Maysville) or else at Limestone while waiting for pack-horses to transport it over the great Buffalo ‘Middle Trace’ to Lexington.” On the way “a great part of the types fell into pi.”¹³

“The first number of the *Gazette* was published on a sheet of demipaper—the second on a half sheet of the same size; but owing to the difficulty of procuring paper, it was soon after reduced to a half sheet fools-cap, and thus published for several months.” It is said that Bradford, who was a man of uncommon mechanical ingenuity, cut out some type, especially the larger letters, from dogwood.¹⁴

In this year, 1787, Congress passed an act for the government of the territory north of the Ohio. The framers of the new Federal Constitution were then debating its provisions. For ten years the old Congress had been decaying both in influence and character, and by this time was nearly extinct. From its assembling late in the preceding year, its Journal shows that day after day, for many weeks at a time, it could not muster enough delegates to transact any business.

In July, however, some northern land speculators seem to have had sufficient influence to secure a quorum and induce Congress to pass two measures of great importance in the subsequent history of Kentucky and the West. One provided a government for the Northwest Territory; the other for a sale to the speculators of nearly five million acres of the choicest public lands in the territory.

In March of the previous year a number of New England Revolutionary officers met at the “Bunch of Grapes” tavern in

¹² Id. 18, 22-3.

¹³ Collins' *Kentucky*, II:180.

¹⁴ Id. 195-6. The only complete file of the *Gazette* now existing is

the treasured possession of the Transylvania University Library at Lexington.

Boston and organized the "New England Ohio Company," to get these lands, undertaking to carry settlers there. Payment for the lands was to be made mainly in continental certificates, then almost worthless. Generals Rufus Putnam and Samuel Parsons and the Rev. Manasseh Cutler were appointed as a managing committee for the company, and Cutler was made its political agent to engineer the project through Congress. This he did with great shrewdness. His Journal¹⁵ gives an enlightening account of the very questionable course he and his active confederates pursued to bring Congress to their terms.

To make the lands more attractive and salable to settlers, the promoters wished Congress to establish a government over the whole territory north of the Ohio, with salaried governor, secretary and judges. Accordingly their coadjutors in Congress submitted a plan which, with some changes, was adopted July 13, 1787, and is the famous "Ordinance for the Government of the Northwest Territory." Its most noted but unwise provision, prohibiting slavery in the territory *immediately*, has already received comment.¹⁶

Before the passage of the Ordinance, Cutler was busy with what he calls his "manœuvres" to influence Congress to make the sale. At first he was discouraged, for General St. Clair, the president of Congress, and other members strongly opposed the scheme. Cutler's journal says:

"Colonel Duer came to me with proposals from a number of the principal characters in the city, *to extend our contract, and take in another company*; but that it should be kept a profound secret. He explained the plan they had concerted and offered me generous conditions if I would accomplish the business for them. The plan struck me agreeably; Sargent insisted on my undertaking; . . . afterwards explained my views to Duer and Sargent, who fully approved my plan. Promised Duer to consider his proposals.

"I spent the evening (closeted) with Colonel Duer, and agreed to purchase more land, if terms could be obtained, for another company, which will probably forward the negotiation.

"*Saturday, July 21.* Several members of Congress called on me early this morning. . . . I told them that if

¹⁵ *North American Review*, LIII: 343 et seq.; *Western Annals*, 289-91. ¹⁶ Ante page 349; c. f. Winsor's *Western Movement*, 280 et seq.

Congress would accede to the terms I proposed, I would extend the purchase to the tenth township from the Ohio to the Scioto inclusively; by which Congress would pay more than four millions of the public debt. . . .

"*July 23.* My friends had made every exertion, in private conversation to bring over my opponents in Congress. In order to get at some of them, so as to work more powerfully on their minds, were obliged to engage three or four persons before we could get at them. In some instances we engaged one person who engaged a second, and he a third, before we could effect our purpose. In these manœuvres I am much beholden to Colonel Duer and Major Sargent. . . .

"Having found it impossible to support General Parsons, as a candidate for Governor, after the interest that General Arthur St. Clair had secured, I embraced this opportunity to declare, that if General Parsons could have the appointment of first judge and Sargent secretary, we should be satisfied; and that I heartily wished his excellency General St. Clair might be the Governor; and that I would solicit the Eastern members in his favor. This I found rather pleasing to southern members. . . .

"I am fully convinced that it was good policy to give up Parsons and openly appear solicitous that St. Clair might be appointed governor.—Several gentlemen have told me that our matters went on much better since St. Clair and his friends had been informed that we had given up Parsons, and that I had solicited the eastern members in favor of his appointment. I immediately went to Sargent and Duer, and we now entered into the true spirit of negotiation with great bodies. Every machine in the city that it was possible to work we now put in motion."

So effective was the work of Cutler and his confederates that three days later Congress made an order for the sale, of which Cutler said:

"By this ordinance we obtained the grant of near five millions of acres of land, amounting to three million and a half of dollars; one million and a half of acres for the Ohio Company, and *the remainder for a private speculation, in which many of the principal characters of America are concerned.* Without connecting this speculation, similar terms and advantages could not have been obtained for the Ohio Company."

General St. Clair was made governor of the territory, Winthrop Sargent secretary, General Parsons chief justice, and

James M. Varnum, long a member of Congress, and John Armstrong were appointed judges.¹⁷ St. Clair became very unpopular with the Kentucky people, and his bungling military conduct was to prove disastrous to many of them.

¹⁷ Armstrong was the author of the anonymous "Newburg Letters" in furtherance of the conspiracy which Washington so skilfully suppressed.

CHAPTER XXVI

WILKINSON'S TRADE MONOPOLY: MEMORIAL

During the great ferment in the western country in 1787, following upon the news of Jay's proposed treaty, Wilkinson, in pursuance of his plan to secure an exclusive privilege of trade with New Orleans, sent there a boat loaded with produce and himself followed. Before leaving Kentucky, however, he communicated with an acquaintance in New Orleans, Daniel Clark, who gave him valuable aid in carrying out his plans and soon became his partner or intimate business associate.

The following account of Wilkinson's visit was afterward given by Clark's nephew:

"Previous to that time [1787] all those who ventured on the Mississippi had their property seized by the first commanding officer whom they met, and little or no communication was kept up between the countries. . . . An unexpected incident, however, changed the face of things, and was productive of a new line of conduct; the arrival of a boat belonging to gen. Wilkinson loaded with tobacco and other productions of Kentucky, is announced in town, and a guard was immediately sent on board of it. The general's name had hindered this being done at Natchez, as the commandant was fearful that such a step might be displeasing to his superiors, who might wish to show some respect to a general officer. . . .

"The government, not much disposed to show any mark of respect or forbearance toward the general's property, he not having at that time arrived, was about proceeding in the usual way of confiscation, when a merchant in Orleans [Clark] who had considerable influence there and who was formerly acquainted with the general, represented to the governor that the measures taken by the intendant, would very probably give rise to disagreeable events. . . . Hints were likewise given that Wilkinson was a very popular man, who could influence the whole of that country, and probably that his sending a boat before him with a wish that she might be seized, was but a snare laid for the government, that he might

have an opportunity at his return to inflame the minds of the people and having brought them to the point he wished, induce them to appoint him their leader, and then like a torrent spread over the country, and carry fire and desolation from one end of the province to the other.

"Governor Miro, unacquainted with the American government, ignorant even of the position of Kentucky with respect to his own province, but alarmed at the very idea of an irruption of Kentucky-men, whom he feared without knowing their strength, communicated his wishes to the intendant, that the guard might be removed from the boat, which was accordingly done."¹

On July 2, Wilkinson himself arrived in New Orleans where, after conference with Clark, he called upon Governor Miro, with whom he was soon having very confidential discussions. He represented to Miro that the Kentuckians and other western Americans, angered by neglect from Virginia and the failure of Congress to force Spain to open the Mississippi for their use, were gathering a great army under General Clark to invade Louisiana and overthrow the Spanish government there. Miro was greatly alarmed. Wilkinson suggested, however, that the Kentuckians could not only be diverted from this purpose, but be led to secede from the Confederation and ally themselves with Spain if the Spanish government would offer them the free use of the Mississippi. He represented his own political, military and personal influence with them to be so great that, with Miro's assistance, he could bring about this secession and alliance.

Miro had probably been somewhat prepared to believe this by Daniel Clark. As proofs both of his leadership of the western Americans and their preparations for invading Louisiana, Wilkinson no doubt exhibited apparently well attested copies of his fabricated papers already mentioned.

Although professing that his sole motive in proposing his treasonable scheme was to secure for his fellow Kentuckians the unobstructed use of the Mississippi, he suggested that it should not be conceded to them until their secession and alliance with Spain. Meantime, he explained, it would be to Spain's interest to give him the privilege of trading with New Orleans in Kentucky products, since it would make the Kentuckians anxious to

¹ Daniel Clark's *Corruption of Wilkinson*, Appendix pp. 6-7.

share the privilege and hasten their secession in order to do so. The grant of the privilege to him would be but a small return for the treasonable services he offered Spain, and would be exclusive only until her cherished aim of detaching Kentucky from the Confederation should be accomplished.

To further convince Miro of the "rectitude" of his intentions, Wilkinson offered to expatriate himself, and secretly took an oath of allegiance to the Spanish King. Governor Miro of course suspected the hollowness of his professions of concern for the Kentucky people as the impelling motive for his conduct, and desired to have a witness to hear his proposal; so he called his intendant, Navarro, into their conferences. They asked Wilkinson to reduce his scheme to writing, and this he did in a "Memorial" which he addressed and delivered to them (September 3, 1787) to be sent to the Spanish government at Madrid. When forwarding it, Miro and Navarro wrote to their superior as follows:

"The Memorial explains itself so well that it would be presumptuous on our part and wearisome to your Excellency were we to undertake to comment on it in its entirety, and we will therefore limit ourselves only to corroborating it and reporting upon the truth of its principal points. All he relates regarding the situation of the Western Settlements up to the Apalachian Mountains is absolutely certain, as also that they are powerful on account of their numerous population from which also results the certainty that Louisiana cannot resist their attacks, in the supposition of course, that it will not be judged advisable to pledge H. M. to maintain an army here. . . . Trustworthy reports we have obtained are convincing circumstances that assure us he exerts the greatest influence in the said district of Kentucky, which would enable him to persuade the inhabitants of the country to follow his leadership in a critical moment."²

One has only to read the audacious misrepresentations in Wilkinson's Memorial concerning "the situation of the western American settlements" to see how completely Miro and Navarro were deceived when they declared that "all he relates" about them "is absolutely certain."

² *Pontalba Papers*, pp. 4-5. Copies in possession of the writer and Mr. R. C. Ballard Thruston.

Referring to Wilkinson's proposal to deposit the proceeds of his sales "in these Royal vaults until the turn his project will take is determined, or until such a time as he may be able to establish himself in this province," Miro says this is

"a circumstance that seems to destroy all suspicion that he may wish to hallucinate us with his great projects in order to obtain for himself advantageous commercial speculations; besides we cannot with justice form such an opinion of him, inasmuch as the condition of the above mentioned Western settlements, and the state bordering on anarchy in which the Federal Government of the United States finds itself, are an assurance that all he has expressed is founded on fact."

Miro then requests that Wilkinson's proposed deposit of proceeds be waived, that the import tax on his goods be remitted, and that he be notified from Madrid that his services would be generously recompensed.

Miro was apparently quite infatuated with the ingenious American's scheme, and, without waiting for its approval by his superiors, gave him a license to trade with New Orleans in Kentucky products, "Tobacco, Negroes, Hogs and apples," up to \$3,000 in value; and also gave him to understand the limit would be enlarged after hearing from Madrid. To enable him to influence prominent men in Kentucky to favor its secession, Miro also gave him two noncommittal letters. One of these Wilkinson could exhibit freely, the other only to "the notables" whom he represented as likely to aid his scheme. Before they parted, Miro and Wilkinson arranged a cipher for their correspondence, using the page numbers and lines of a small English dictionary instead of words.³

Many writers have assumed that Wilkinson really aimed to detach Kentucky from the Confederation and make it an ally of Spain. Never was a greater error. His main purpose was to get rich by using his exclusive privilege of trading in Kentucky products with New Orleans. So long, and so long only, as he alone possessed this privilege, no one could compete with him in bidding for those products; he could buy them at very low prices, and sell them for four or five times as much in New Orleans. But Ken-

³ *Corruption of Wilkinson*, Appendix p. 40, deposition of J. Mercier, former clerk to Miro.

tucky's secession would at once have destroyed his profitable monopoly, since the trade privilege would then have been shared by all her citizens.

His aim was very different—namely, to *keep Miro believing* that the Kentuckians were almost ready to secede from the Confederation and ally themselves with Spain. To deceive him, Wilkinson would keep them stirred up over the wrongs they endured from Virginia and Congress; but no other man would have been so much chagrined by Kentucky's actual secession. The ingenious methods by which, after his return to Kentucky, he made several of the popular conventions there seem bent upon secession, and even to endorse his whole traitorous scheme, make one of the most extraordinary stories in American history, and a very important one.⁴

For over a century after Wilkinson delivered his Memorial to Miro, historians were at sea concerning what he had said in it. Extracts from a copy of it in the Spanish Archives at Madrid were published by Prof. W. R. Shepherd in the *American Historical Review*⁵; but it was first given in full in the *Filson Club Publications* in 1926.⁶ Because of its interesting nature and historic importance, it will be quoted here in its entirety:

⁴ Great, however, as were the results of Wilkinson's course during and after 1787, they were not comparable in importance to those caused by his little known plot, in the fall and December of 1786, to misrepresent General Clark to the Virginia executive and Congress and succeed him as Indian Commissioner for Congress; for, as we have seen, the forgeries Wilkinson sent them in support of his plot alarmed the eastern leaders, killed Jay's treaty with Gardoqui, and thus saved the tottering Union.

⁵ 1903-4, "Wilkinson and the Beginnings of the Spanish Conspiracy."

⁶ Supra. Fortunately the Memorial and other correspondence of Wilkinson and Miro, known as the "Pontalba Papers," were preserved in the Pontalba chateau at Senlis, France. Baron Joseph Xavier de

Pontalba was Miro's nephew, who had long resided in Louisiana, was intimately associated with the governor, and seems to have succeeded to the possession of his papers. Some of the Baron's letters to Miro appear in the *Louisiana Historical Quarterly*, II, No. 4, p. 393, etc.

In 1800, when Napoleon dominated Spain and wished it to cede Louisiana to France, he ordered his ministers to collect reliable reports concerning Louisiana. Such a report, and a very full and able one, was made by Baron Pontalba. It deals with the history, resources, and military situation of the colony and is set forth at length in Gayarré's *Louisiana, Spanish Domination*, pp. 410-45. It seems not unlikely that at Napoleon's request the Spanish government furnished Pontalba such of the Miro-Wilkinson papers as he desired from the ar-

WILKINSON'S MEMORIAL

"The American Settlements, to the west of the Apalachian Mountains, enjoyed, during the Britanic Government, the free navigation of the Mississippi, and during the progress of the last revolution, communication with the Vassals of H. C. M. in Louisiana was maintained open; the advantages which a few travellers obtained from this commerce attracted the aims of a great many individuals of the Atlantic Coast, and the unanimity of the reports upon the fertility of the soil and healthfulness of the climate in the territory of Kentucky given by all those who had explored it, fixed the attention of people of all classes and conditions upon the western country.

"My compatriots, who are active and enterprising, had, with the long use of the Mississippi under both the Spanish and British administrations, established a right which they considered indispensable, which belief was corroborated by the definite treaty of Peace and Amity with Great Britain; the hostility of the Indians and the public service on the Atlantic Coast were great impediments to emigration; but Peace dissolved these obstacles and awakened anew the pre-occupations in favor of the said western countries, and in 1784 about 950 souls arrived in the one district of Kentucky. Trade prohibition with America, which Spain proclaimed shortly afterwards, was at first considered as only temporary and to better express it, as a formality of the negotiations between H. C. M. and Congress, which was anxiously and daily desired and expected.

"We, nevertheless, remained deceived in our hopes, not only on account of the little attention shown to this matter by Congress, but the declared intentions of the Court of Spain to assure itself the exclusive right to the said navigation, which coupled with the confiscations made at New Orleans, filled the new Settlements with anxiety, cooled the hopes of those whose aims were directed toward the west, and removed the motives that originated these settlements; but other causes more irresistible in their nature promptly renewed them.

chives at Madrid; and that this explains there being now only copies left there.

In their private dispatch No. 13 to Valdes, Spanish Secretary of State and President of the Council of the Indes, Miro and Navarro enclosed the Memorial and said:

"We remit the Memorial in English [evidently the original written by Wilkinson] with a translation, so that you may at once read it and have it compared with the one in the former language." (September 25, 1787, Author's *Pontalba Papers*, p. 18.)

"The last revolution involved the Americans in heavy foreign and domestic debts, and to provide for the payment of these, and to sustain the federative Government, Congress was authorized to ask the Members of the Union their portion, for which purpose the different States imposed taxes upon its citizens, who found them so oppressive that a multitude were reduced to the alternative of opposing the laws, or preferring to subsist, rather than to submit to imposition, sought refuge in the woods of the west. Thus voluntary emigration took place, and these impositions, neutralizing all the obstacles Spain and America interposed, should have produced a yearly emigration in the said Settlements equal to at least ten thousand souls,* and this will continue in the same manner as long as there is not the slightest appearance of relief.

(* After writing this page I have been informed by a man of honor and intelligence, recently arrived from America, that this year there will be an emigration of about 4,000 souls.)

"It will not be improper to mention that in all Republics the execution of the Laws is, for known causes, lax, weak and vague; the Americans who crossed the Mountains and established themselves at a great distance from the executive authority of their respective governments, availing themselves of this principle and complaining of the lack of commercial advantages which their brethren of the Atlantic Coast enjoy, declared themselves unanimously against the tributes, without there being anyone willing to undertake the execution of the Law on this point.

"In this situation the Western Settlements have contented themselves with the short and precarious outlet for its products, that upon their arrival the emigrants themselves afford, looking forward anxiously to the day when Congress, taking into account their situation, would obtain for them the free use of the Mississippi, but what has been their astonishment and surprise, when instead of the protection which as members of the federative Union they had a right to expect and receive, they saw last summer this honorable body negotiate with Dn. Diego Gardoqui the exclusive right of navigation on the said River, in exchange for certain commercial advantages in favor of the people residing on the Atlantic Coast, and that seven of the twelve States represented ardently embraced this action! This device was received by the Western people as an infraction of the federative pact, which basely sacrificed their interests in favor of others, whose conduct irritated them excessively and when they combined it with continuous opposition to the measures proposed for their defense against the savages, they were induced to be-

lieve that they could expect nothing from the friendship and Justice of Congress. Imbued in this opinion, Kentucky is taking measures for its own safety, and to this end it has fortunately and considerably advanced its petition to the State of Virginia (to which it now belongs) to obtain an act of separation in order to be erected into an independent State and govern itself, and at the same time in order to preserve the public conduct against any imputation of excess or deceit, they have presented a memorial to Congress in which they recite the injuries and hardships which will befall them if they are deprived of the navigation of the Mississippi; they establish circumstantially their right as a member of the federative Union, and expressly declare that if Congress does not protect and sustain them in this desire it must consider the ties of their fidelity dissolved, they remaining at liberty to provide for their own conservation.

"This was the frame of mind of the Kentucky Politicians (and their policies always direct those of the other Western Districts) when I took my departure in the month of May. Its future conduct will be largely governed by the determination Congress may take regarding Kentucky's Memorial, and what this will be no one can tell with certainty; but by inferring on facts and experience, I shall be able to deduct an evident opinion, to which end it will be necessary to manifest what the policy of Congress has been with regard to the above mentioned Settlements.

"The extensive cession of territory to the Northwest made by Great Britain to the United States in the Peace of 1783 not having been comprised in its expectations, was unlooked for and as a consequence the federative Councils were not prepared for it: this acquisition drew the attention of many to it as a fund with which to extinguish the National debt, giving rise at the same time to many kinds of speculations: in the Eastern States where reside the shrewdest Politicians of America, it was predicted that if those territories were peopled it would dissipate the strength of the Union and diminish the land values of the Atlantic Coast, so that self-interest immediately prevailed over those comprehensible principles of friendship and happiness that originated the revolution against Great Britain and its deputies in Congress determined to adopt the same policies which they had so recently condemned.

"These sentiments, however, being repugnant to the aims of the Southern States, were never openly expressed, until last summer, when Sr. de Gardoqui presented his propositions: it became necessary then on account of the many dif-

ferent interests, to act with decision, and the mask having been removed in the heat and excitement of the discussion that took place between the Eastern Middle and Southern States, the sentiments of each party were openly declared and sustained.

"The recapitulation of the arguments alternately employed in this great question would be foreign to my purpose and annoying to my readers, and it will be enough to say that the controversy rose to such a pitch that threats were made of dissolving the Union. The United States thus divided, confused in its Councils, burdened with debt, without interior or exterior credit, could not, in spite of its zeal, take active measures to acquire the navigation of the Mississippi against the wishes of the Court of Spain: and when we add to these facts the thought that the most powerful and populous States are completely opposed to her, it strikes me we may freely and surely conclude that the Memorials of Kentucky and the other Western Settlements will not vary the policy of Congress in the slightest degree.

"The evident consequence of this will be a distinct confederation of the inhabitants of the West, for its common welfare and happiness; this step, Congress neither can nor cares to stop; it cannot because it is without men, money or means to acquire one and the other: it will not care because this event has been foreseen with anticipation as inevitable, as a consequence of local circumstances and because they hope that on account of the inability of these new Settlements to fill the Governmental offices, such confusion and disorder will arise that emigration will be arrested more effectively than by any act of Congress.

"The first care of these people will be to establish forms of Government, and organize systems of general co-operation; having adjusted these indispensable preliminaries, they will direct their aims to the navigation of the Mississippi, the object upon which are based all their hopes of worldly happiness, and without which poverty and misery will be their only fate; but they will pursue it with valor and perseverance: knowing well the character of the Americans and the martial spirit, the last war infused into all classes, I speak with certainty when I say they will take up any proposition, no matter how desperate, in a cause of the utmost importance to them and their posterity.

"The above mentioned settlements, whilst thinking over their situation, fixed their attention on two projects, either one of which they thought would fulfill their supreme desire. The first and least difficult is a friendly understanding with

the Court of Spain. The second, reliance on its own resources and the indirect help of Great Britain. To undertake now, to point out the exact outcome of these two projects would be presumptuous, for they must undoubtedly adjust themselves to the circumstances of the times, and for this reason I will only speak of what may possibly happen, in accordance with the discourses of men who have influence in those Settlements.

"These prominent men have observed that the understanding with the Court of Spain should be preferred above all others for the manifest reason that it could immediately and surely grant them what they wished without risk or expense to either party: in accordance with these ideas the sending of an agent to Louisiana and if necessary to Madrid, after the conjunction with United States was dissolved, was discussed, so as to solicit the privileges that the happiness of the district required, in terms satisfactory to the Policies and interests of Spain, and in case this proposition was rejected, then to embrace those made by Great Britain. In order to show what these are it is necessary to review the policy and purposes of this Nation.

"The last American revolution, dismembering the British Empire, has considerably weakened this imperious Nation; the loss of thirteen new, vigorous and flourishing colonies has sensibly diminished her power: this occurrence has generally embittered the Nation against the insurgents and profoundly affected its pride, exciting the deepest resentment in the heart of the King, so that both the Nation and the King are dominated by a passion that makes them consider as a benefit to themselves any harm done to America, hence they have spared no labor and no effort to disunite it's councils and divide the interests of the Union so as to destroy its commerce, and sow sedition among the inhabitants of the principal States: but when the eyes of this Nation were turned toward the Western Settlements of America, they anxiously contemplated an object which they conceived could satisfy their resentment against the rebellious Colonies, and at the same time would be advantageous to its own material aims.

"Great Britain is at present owner of the navigation of the St. Lawrence River from its mouth to its source in the vicinity of the Mississippi; if it could also acquire possession of this one it would then own the two great places of North America, whose arms and branches traverse almost the Torrid and Frigid Zones, an immense country without equal in its soil and productions, it would then surround the United

States of America, and in less than half a century would receive only from the contributions upon the progressive and inexhaustible fountain of commerce, an income superior to any its colonies ever produced.

"This is a brilliant object, worthy of being appreciated by a great Nation, and I am authorized to state that this has not escaped its due attention: but the British Treasury has been so drained in the last war and continues to be so weak and confused that Great Britain will not dare an open rupture with Spain, for which reason her policy will be to employ the Americans of the Western Settlements in an attack against Louisiana, and if the results are favorable it will embrace the first opportunity to assure itself a right to the navigation of the River, and under this pretext receive Louisiana from the Americans as a compensation for the indirect help she may have given. These observations, inasmuch as they are related to future things, are certainly only speculations, which, however, are founded upon reason and probability, corroborated by the following facts:

"Already in the year 1783 an English gentleman of rank approached me on the subject, and although he would not guarantee the conduct of his Court, did not however doubt that at whatever time the Western Americans would separate themselves from the primitive States, Great Britain would receive them under its protection with pleasure, and that indirectly through its private agents would supply them from Canada, with arms, ammunition, clothing and money for attacking Louisiana and open the Mississippi, and if the undertaking succeeded, which he did not doubt, he was positive that Great Britain would without delay assure her pretention to the navigation of the Mississippi, and that if this affair occasioned a break between the two Courts, he had reason to believe that Great Britain would find an excuse, and probably the open support of several commercial powers who would not voluntarily allow that the valuable products of so vast a country should remain entirely closed to the rest of the world. In any event, he had the satisfaction of believing that Great Britain would risk a war with Spain for the purpose of navigating the River and that the only compensation it could expect from the Americans was *the Province of Louisiana*. This gentleman, whose name I must withhold, in obedience to principles of honor and confidence, I have since found out had conversed freely with the Count of Shelburne (then Minister in the last Cabinet) whose views and opinions agreed with the observations the gentleman had just suggested to me, and he added the above mentioned Lord had

all the more easily given up the Floridas on account of the fact that they naturally would become a basis of discord between Spain and the people of the West of America, and in this would favor the ultimate views of his Court. Having gone thus far with the mentioned gentleman, it will not be amiss to mention the following authentic information received from the highest sources:

"Last year several South American Agents arrived in London, and approaching the Minister, solicited from him assistance of arms and ammunition to favor the rebellion they had begun, to which the Minister replied that he could not grant their request, for between the Crowns of Spain and England there existed a treaty of peace and amity, but he recommended to these agents that they present themselves to a certain gentleman who informed them that he not only was inclined to help them, but was able to do so in his own name without involving the two Courts, which was finally done. The gentleman furnished them the required articles and recommended to the agents that they employ an American ship then moored in the Thames, to transport these to Central America, and in accordance the Agents called on the owner of the ship, who, before binding himself for this service, judged it prudent to consult the matter with another American gentleman who was then in London, who persuaded him to refuse the offers of the agents, although these were considerable, and employed him to investigate the business of the Southern Americans in London, by which means he acquired the above information, to which the said agents added that the gentleman who had furnished them arms and ammunition told them there were thickly populated settlements of Americans West of the Apalachian Mountains, who could create a diversion favorable to the rebels, for which purpose he advised them to send agents there, but the American, knowing the geography of the country had no trouble whatever in destroying their hopes on this side and abandoning their idea.

"When we consider these facts, together with the proposition of an English trader, last winter, to supply Clark and Green with ammunition and clothing to enable them to carry out their nefarious designs against Natchez and the other posts of H. C. M. in the upper Mississippi we can with justice presume that Great Britain preserves permanent aims upon this Country.

"From this point in my observations, and in view of what is said above, we may deduct the following facts and natural inferences:

"First: That the American Settlements, whose rivers

flow into the Mississippi, are already powerful and on account of their nature, irresistible, and should daily increase in strength.

"Second: That the navigation of the Mississippi is the fountain from which they must hope for future relief and comfort, in consequence of which each individual is of himself always attentive to this object, and through the powerful incentive of self-preservation will employ any means, no matter how desperate, to attain it.

"Third: That in order to promote this much desired end, they are working to separate themselves from the American Union, and that Congress has neither the power nor inclination to prevent this measure.

"Fourth: That the Notables of these new Settlements are considering two projects, either one of which they believe can be conducive to the success of this, their favorite object: i. e., *an amicable arrangement with Spain, or hostilities with the help of Great Britain.*

"Fifth: That this Power is courting those Settlements and will endeavor to insidiously bind them to attack Louisiana.

"Sixth and last: That the above mentioned Settlements have determined to make the first propositions to Spain and in case these are not accepted, to embrace the policies of Great Britain.

"There now only remains to say what the policies of Spain should be at this critical juncture, and this, to be truthful, is a task that would occupy the mind of the most distinguished in Europe; nor is it possible to establish any fixed system of measures the Government should follow, and these, without doubt, must be largely regulated by future events, for which reason I will endeavor with a faltering hand to give my opinion, relying more on the indulgence of those I have the honor of addressing than on my own sagacity and policies.

"Without attributing to all things a preponderance of natural or religious causes, I take it as an indisputable axiom that it is impossible for man to oppose the dispositions of heaven; the power of man may care to delay and oppose, but the original plan of the Almighty must ultimately perfect and accomplish itself. To deny this would be to deny the omnipotence of the Divinity.

"When we cast our eyes on the country East of the Mississippi we find it of vast extension, varied in its climate, of excellent lands, the best in the New World, abounding in the most useful mines, minerals and metals; on making this examination the question naturally arises: For what pur-

pose did the Father of the Universe create this country? Surely for the good of his creatures, for we are taught that he made nothing in vain. Does it not, therefore, strike the most limited intellect that he who closes the only gate by which the inhabitants of this extensive region may approach their neighbors in pursuit of useful intercourse, opposes this benevolent design? Is not the Mississippi this gate? The privation of its use takes away from us Americans what nature seems to have provided for their indispensable convenience and happiness. I will then say that the following questions must naturally occur to the Spanish Cabinet, and that its policies must be largely influenced by them.

"First: Will we be able to perpetually resist in their designs on the navigation of the Mississippi, the Americans living West of the Apalachian Mountains, powerful as they already are, increasing in strength from day to day, and assisted by a respectable European Power?

"Second: Will resistance for a few years recompense H. M. for the expense incurred and may not that resistance produce to the Spanish Monarchy worse consequences than the loss of Louisiana?

"Third: Will it not be preferable to attract these [American] Settlements by means of some concessions and accommodations, thus making them serve the interests of Spain, than to compel them, through hostilities and rigorous exactions, to throw themselves into the arms of Great Britain?

"To answer the first question we must throw our sight on the respective situation of both countries: the American Settlements are situated in the forests of North America, and being near its center are defended on all sides by mountains and torrents that are impracticable to organized troops and will allow passage to only small bodies at a time: their situation alone protects them against any foreign invasion.

"Louisiana is situated on the same waters that bathe the shores of American territories; it is a flat country, not protected by defiles or critical passes, and can only be defended by superior military forces: the Capital of the Province is 1500 miles away from the district of Kentucky, the lowest settlement on the Ohio River; How great is the disparity of circumstances between the two countries, from the military point of view! The American defended by the barriers of nature is absolutely inaccessible to any adequate force that may be sent to reduce him, at the same time he can instantly introduce into the very heart of Louisiana any corps of troops judged necessary, which can be easily made to subsist by means of the same channel by which they came

down. Thus it is in his power to incommode and tire Louisiana, even with small parties, without these having to expose their wives and children and goods, and it cannot be doubted that a daring race of men, accustomed to war and familiarized with danger on account of their incessant hostilities with the savages, will not hesitate to expose their lives in a fight of so great moment to themselves and their posterity. It will be useless to tell them that they have nothing to gain by taking Louisiana, for Spain is able to blockade the River with ships; they will reply: If we gain nothing, we will lose nothing, and at the same time we annoy the enemy we shall have imperiled our lives to obtain freedom from the hardship that oppresses us, and having made the experiment, and in so doing exposed ourselves to the consequences, in case of an unfortunate ending we can always go back to our homes in the same conditions we left them, satisfied that we have done our duty. I imagine that I do not exceed the limits of probability when I presume that well equipped men, with arms, ammunitions and provisions, commanded by old and experienced officers, taking advantage of their situation and superiority in numbers, will be able to possess themselves of Louisiana in a very few years, as against any force Spain can send.

"Replying to the second question, it must be admitted that a respectable force can protect Louisiana for a few years and prevent the Navigation of the Mississippi, to which end I believe it would require ten thousand veteran troops, well distributed and ably commanded. This corps will have to be maintained at an expense to the Crown considerably more than the revenues of the Province, and as the Americans multiply themselves, these troops must be increased, which will bring up the expenses to an impossible point; so that when Spain is exhausted of men and treasure, the Americans, like a detained torrent that has accumulated prodigious weight, will break all impediments, and desolating whatever they find in their path, sweep all resistance to the Gulf; there is another effect of the utmost importance to the Spanish nation, which the prohibition of the Mississippi may produce; the American Settlements abound with men accustomed to the life, habits and manner of warfare of the savages, who know how to procure their subsistence with their arms and thus find themselves continually prepared for war and hazardous undertakings; these men forced into idleness by not finding an outlet for the sale of the product of their labors, may be induced by a man of influence to any extreme of desperation; the silver of Mexico is an object of universal

temptation, and I am sure that if those Americans cannot find it through the Mississippi they will endeavor to do so in that Kingdom through Illinois; how this can be done I am not sufficiently informed to determine, but I am assured that there are several Frenchmen in Illinois who have gone to Mexico and back by the above route; let this be what it may, I am convinced that it can be done for it was proposed to me by various resolute men, should the above people find no other means.

"The third question finds itself answered in what is said above; but in addition thereto it may be briefly observed that if Spain throws the Americans into the arms of Great Britain, she will at once risk Louisiana and successively the Mexican Provinces, and on the contrary, if she draws the Americans to her interests, she may immediately begin to enjoy a vast revenue from her connections or commerce, and establish a permanent barrier against Great Britain and the United States.

"The affair finding itself in this condition, Dn. Diego de Gardoqui should without hesitation deny absolutely to Congress the navigation of the Mississippi, because if he negotiates a treaty by which the Americans have the right to the independent enjoyment of this navigation, the power that Spain now possesses over those settlements will be destroyed and *our* principal object will completely vanish, for this must be established on the basis that said districts will maintain themselves subordinated and will solicit the protection of that Power [Spain] which assures them this, their most precious privilege, and Spain will therefore very carefully preserve this right so as to use it in exchange for such advantages she may wish to obtain from the above mentioned Western Settlements.

"The prohibition of commerce on the Mississippi to the Americans has been a very wise measure, the more so that it has reserved for Spain the power to confer this inestimable privilege (which she may freely give) to a people who, if they had enjoyed it without interruption, would not believe themselves compelled to any recognition.

"The same policy must continue yet a while, with more rigor in its *general application*, but in order to conciliate and prepare the minds of the Western Americans, tolerance will be good politics in certain particular cases, offering it to a few parties of real influence. This conduct will make them partisans of Spain, and will flatter the people with hopes of a free and amicable commerce, and will prevent any insult or hostility. With these pretexts the steps of the

withdrawal from the federative government to the negotiation with the Court of Spain will be natural and immediate.

"Under the circumstances Spain should rest and with patience await the proposition of the Americans; but it appears absolutely indispensable that those who now govern this Province [Louisiana] should be fully authorized to act with the agent or agents [of Kentucky] who will come down to treat of the conjunction, which will facilitate and abbreviate the affair; once the Americans have made the propositions, Spain will hold the game in the hollow of its hand, and, as undoubtedly more able heads than mine will direct it, it would be presumptuous for me to venture an opinion now; therefore I will only say that I am at all times ready to give such assistance as I may and that I am sure that the negotiation may be conducted in such a manner as to assure Spain all the advantages it may desire without involving it in any dispute with the United States. Spain pretends [to be] and is owner of the navigation of the Mississippi, which it may concede to any part of the United States, under such conditions as her politics or inclinations suggest, and if this part [Kentucky] were to violate the federative pact or that of the Union to obtain the said grace, it is the violator, and not the Court of Spain, who is responsible to Congress, in which case Spain will remain silent and allow only the Americans to operate.

"But if, through some circumstance at present unforeseen and un hoped for, this brilliant plan should fail, I am decidedly of the opinion that the following political and defensive system will be of immediate benefit in securing the safety of Louisiana, and ultimately bring about the occurrence that we are discussing; at present there is only one regiment destined for service in Louisiana and her dependencies, and this corps finds itself divided into ten detachments situated in such a manner that they cannot reciprocally support one another promptly; these would be an easy prey for even a weak enemy and consequently cannot furnish the Province any considerable protection against attack, it being easy for an enemy to embark at Fort Pitt two thousand miles away, and be borne by the rapid current, and he himself give notice of his arrival on the embankments of the city.

"To safeguard against this peril let us take advantage of the example of the European Nations and what reason commonly dictates: In Europe we find kingdoms, principalities and provinces, defended by fortifications and all their passes and frontiers occupied; so, if we wish to defend a house we begin by closing the door and there we make the principal

defense: the same maxims may be applied to Louisiana; defended by her Navy and the possession of the Gulf by a rugged coast and a country of difficult access, she has little to fear from the outside, and can only be attacked from the interior through the Mississippi. Therefore, this is the critical point that Spain must overcome; a respectable post at a certain distance from her settlements situated below where the waters, by which the attacking parties would have to come down, flow into the Mississippi, would be close enough to support Illinois; besides, it would restrain any designs against Mexico, would prevent an inferior corps from going down into Louisiana and hold superior forces in check so as to give time for the Province to be placed in a better state of defense, and finally when compelled to retire, it could by a simple maneuver and the sacrifice of a very few men assure its retreat. I speak as a soldier and politician when I say that Spain should take possession immediately; in accordance with strict military principles, it is necessary for the defense of the Province, and considered politically it is also necessary for any negotiation that would take place after between Spain and the Western Americans, the more the strength and independence of the military forces of the post, the more advantages the former will be able to extract from the latter.

"The position for this Settlement must be selected with much precaution and discernment, for which reason, not knowing the country, I cannot venture to fix; but I shall mention a place which attracted my attention when I came down by this river, and which is vulgarly called 'L'Anse a la Grasse,' situated 15 leagues from the mouth of the Ohio on the right bank of the Mississippi, where at present resides a tribe of Delaware Indians. I am informed that the territory is extensive, not subject to inundations, well adapted to agriculture and its climate very healthful.

"The cost of the subsistence of this garrison should not be an obstacle, even though provisions are brought from Europe; but this will not be necessary as the American Settlements can surely and easily supply them for one real⁷ sterling, (English money) for each ration.

"Once this post is established, Spain may with assurance, admit Americans into Louisiana and Florida, although I am of the opinion that the former should be developed first on account of its preferable soil, and as the purpose of this policy is to alienate and banish American principles and con-

⁷ In Mexico, about 1½ Shilling.

nections, it will be an invariable rule not to concede residence to individuals who do not bring visible property or who do not present a sure bond, under the penalty of confiscation, that will respond for the faithful accomplishment of the oath, which oath shall be universally exacted; but as Religion depends upon faith and intimate conviction, the first Settlements should be left free and unfettered in this respect. The body may be conquered by suggestion, but the soul is invincible and becomes obstinate with oppression. The experience of centuries has demonstrated that persecution in religious matters has not obtained the desired end. Churches must be erected in these new Settlements at the expense of the public, with clergymen gifted with piety, forbearance and intelligence, who possess the English Language, who know the character and customs of the Settlers, not only to propogate the Holy Gospel, but also to educate the youth and prohibiting all other public cults, the first form and principles of the ancient Religion will be adopted. Nor must the civil and military jurisdiction be less strictly considered; men of peaceable temper and recognized talent, who speak English, and on occasion are able to sacrifice all idea of self-interest, must be chosen. An American under such an administration will look with indifference on the Government he may have abandoned and finding himself in the free enjoyment and sure possession of his property and safe from impositions, will become a partisan of Spain by the indissoluble links of interest and affection.

"This plan, so beneficial as well as politic, will produce immediate consequences of the utmost importance to Spain, because the first who venture themselves by reporting back to their brethren they have left behind, on the suavity of the government, fertility of the territory, the advantages of markets, and above all the emigration from Kentucky and other American districts, being exempt from tribute, will be more rapid into Louisiana than it ever was from the Atlantic States into the said Western Country. This Province will flourish quickly in richness and strength and will become important to the Nation. To this end the same consideration that moves the United States to oppose the peopling of the Western Country will dictate to Spain a contrary policy, because as she possesses the only outlet for exportation, when this vast country and fertile territory is peopled it will be capable of producing with only the commercial tax an income more positive and probably equal to that of South America.

"Having unfolded these important points of *our* affair,

it will not be improper, Gentlemen, for me to explain clearly at this point, to your Honors, the purpose of my voyage in order that you may duly inform your August Sovereign thereof.

“Be it known to your Honors that the Notables of Kentucky, the place of my residence, chafing under the inconveniences and privations they suffer through the restrictions placed on its commerce, suggested and pleaded that I make this voyage in order to penetrate, if this were possible, the attitude of Spain toward their country and to discover, if this were practicable, whether it would be agreeable to open a negotiation, *to admit us under its protection as vassals*, with certain privileges in matters of religion and politics in accordance with the temper, and necessary to the welfare of the present generation. These privileges would have been specifically defined, and I would have brought my commission in writing from Kentucky (about to become a free and independent State) were it not that it continues to be subordinated to the republic of Virginia, but as I observed above that the people of this district, after they have organized their government will make their representation to the Court of Spain upon the subject which I have just mentioned, and as I am convinced that its happiness and the peace of Louisiana depend on the success of this petition, I will with the greatest satisfaction employ all my abilities to this end, so as to merit those considerations which my services may make me deserving of. If this proposition is admitted, I will be ready to receive instructions from the Government, and return to Kentucky by the shortest and surest route, and on the way I will establish a confidential correspondence near Congress that will regularly procure for me information as to all the measures that may in any way have relation with our affair. If in the reply which I may receive to this memorial my propositions are admitted, I shall on my return to Kentucky proceed with careful deliberation, take advantage of my personal consideration and political influence in order to familiarize the people with whom I live with and make popular among them the aims that constitute the purpose of my present voyage, to which I have already fixed the sight of all that part that knows how to discern in this community, and I will bind myself to constantly send by confidential messenger (who must be compensated for the perils and fatigue of the journey) exact accounts of the measures I may have adopted in this important business, the effect they produce as also of any procedure of Congress.

“I hope, however, that no wrong will be surmised; if, at

the same time I labor to further the work that may produce the agrandizement of Spain and the prosperity of thousands of souls, I should attempt to secure the stability and welfare of my own family. To this end, and in order to give the strongest proof and bond of the sincerity of my propositions, I beg to be allowed to send to a representative in this city who deals in negroes, cattle, tobacco, flour, bacon, tallow, fats and apples, the product of about fifty or sixty thousand dollars of principal in Kentucky, these articles to be sold for my account and the amount deposited with this government as a guarantee of my good conduct until the time we are advised of the success of our projects or that I may establish my residence in Louisiana.

"Thus, Gentlemen, have I given to your Honors my opinion, prospects and purposes in an affair that I consider of the greatest importance to Louisiana, as also to the country in which I am now living; when I reflect that I have written this memorial with continuous interruptions, daily efforts and various other disadvantages, I know that it must be full of errors and imperfections. But in the midst of these painful reflections I comfort myself in thinking that I have the honor of addressing two gentlemen from whose candor and consideration I will experience the most ample protection.

"After your Honors have duly examined these observations, they will be able to determine whether or no it will be useful to appoint an agent in Kentucky, and once this idea is approved your Honors will draw up the regulations necessary to the rendering of the more essential services to the Crown; it is clear that an agent in that country, without personal influence will be able to warn the government in time of any offensive action that could be attempted, a matter without doubt of the greatest importance, but I comprehend that it is not out of reason to conclude that a man of great popularity and political talents, co-operating with the causes above mentioned, *will be able to alienate the Western Americans from the United States, destroy the insidious designs of Great Britain and throw those (Western Americans) into the arms of Spain.*

"I am certain of one thing, and that is, that I have respected the sacred truth of the facts I have established and that I have made use of my greatest faculties in digesting my speculations, but let it be permitted to me to observe here that the events that appear so probable and which I have anticipated in these pages, may possibly never be accomplished; in this case may I again be permitted to remark that I do not pretend infallibility in my judgment, nor can I be

held responsible for the uncertainty and changes in human fortune. My understanding may err; but my heart can never deceive, and if the success does not correspond to our hopes, we may justly exclaim with the poet:

“ . . . It does not pertain to mortals to be masters of success’.”

“But we have done more, we have deserved it!

“Before concluding, I beg the indulgence of being permitted to make a few other remarks. The interest of the inhabitants residing on the shores of the rivers that pour their waters into the Ohio being the same, their policy must in any event, and notwithstanding any temporary misunderstanding, be the same; for once the upper settlements see Kentucky flourish, enjoy peace and accumulate riches under the protection of Spain, they will find themselves impelled by the most powerful arguments that may be offered to the human intellect to embrace the policy that procured for Kentucky the referred to advantages. These districts extend themselves from the waters South of the Tennessee River up to the arms of the Northern Ohio for a distance of 500 miles more or less, situated west of the Apalachian Mountains and generally following their direction. It is not possible to assure the number of these large settlements, but I confine myself tightly within the truth when I say they contain 150,000 men capable of bearing arms.

“Finally, Gentlemen, permit me to observe that it appears to me that the success of these propositions depends in a large measure on the following contingencies:

“1st: The most inviolable secrecy, not only of the project, but also of my name which is well known to Mr. Carmichael the American Charge d’Affaires at the Court of Madrid.

“2nd: Of the continuation of Sr. de Miro in his present command, on account of the personal knowledge that both of us have formed, thus acquiring reciprocally a personal confidence that is essential to the negotiation, which would not be the case afterwards with his successor.

“3rd: I am absolutely convinced that the appointment of D. Martin Navarro to be Minister to the American Government would be most advantageous for the promotion of the project. This gentleman, being near Congress, with the knowledge he possesses of this affair, would be able to take advantage of any occasion to further our aims, and through this means we would be able to establish direct communication from Congress to the western countries and from Louisiana to the Court.

"Forgive the above remarks, prompted by the conviction of their usefulness, and by my zeal in the cause to which I have pledged myself. To you, Gentlemen, I have confided an affair of so important a nature that were it divulged it would destroy my fame and fortune forever; but I feel the greatest confidence in the discretion and silence of your Honors, and if in any event the project should be rejected by the Court, I must rely on the candor and high honor of a worthy Minister to bury all I have communicated in eternal forgetfulness.

"Dn. Esteban Miro, Governor of Louisiana, and D. Martin Navarro, Intendent of the same."

WILKINSON'S EXPATRIATION DECLARATION

"Declaration: Interest regulates the passions of Nations, as also those of individuals, and he who attributes a different motive to human affairs deceives himself or seeks to deceive others: although I sustain this great truth, I will not, however, deny that every man owes something to the land of his birth and in which he was educated. This something, no matter in what form it manifests itself, is founded on self-pride; for example, [an] Irishman in Spain, a Spaniard in France, a Frenchman in England, or an Englishman wherever he may find himself, will glory in reciting the virtues and fame of his respective nation, and will be pained and angered at any manifestation of its misfortune or dishonor, but to affirm that an intelligent being, who is able to act freely, must like a plant take root to the place which by chance witnessed his birth, would be to dispose of the wisdom of Providence and condemn the universal practice of the human race.

"When a distinguished person intends to expatriate himself, he should proceed with caution and circumspection, weigh carefully the obligations that subsist between himself and his country, see whether he is bound by some link of public confidence positive or implied; he should consider that this course will wound the self-pride of those he is about to abandon, and as a consequence will expose all his life and actions to the severest scrutiny, and his reputation and character to the blows and jibes of gossip and calumny: profoundly impressed by these important truths, leaving apart all passion and prejudice, I appeal to the intelligence which God's bounty has given men, and have matured my decision in accordance with the dictates of reason, honor and conscience.

"Possessed of these principles and adopting this opinion,

I hope that it may never be said of me, with justice, that in changing my allegiance from the United States of America to H. C. M., I have broken any of the laws of nature or of nations, nor of honor and conscience.

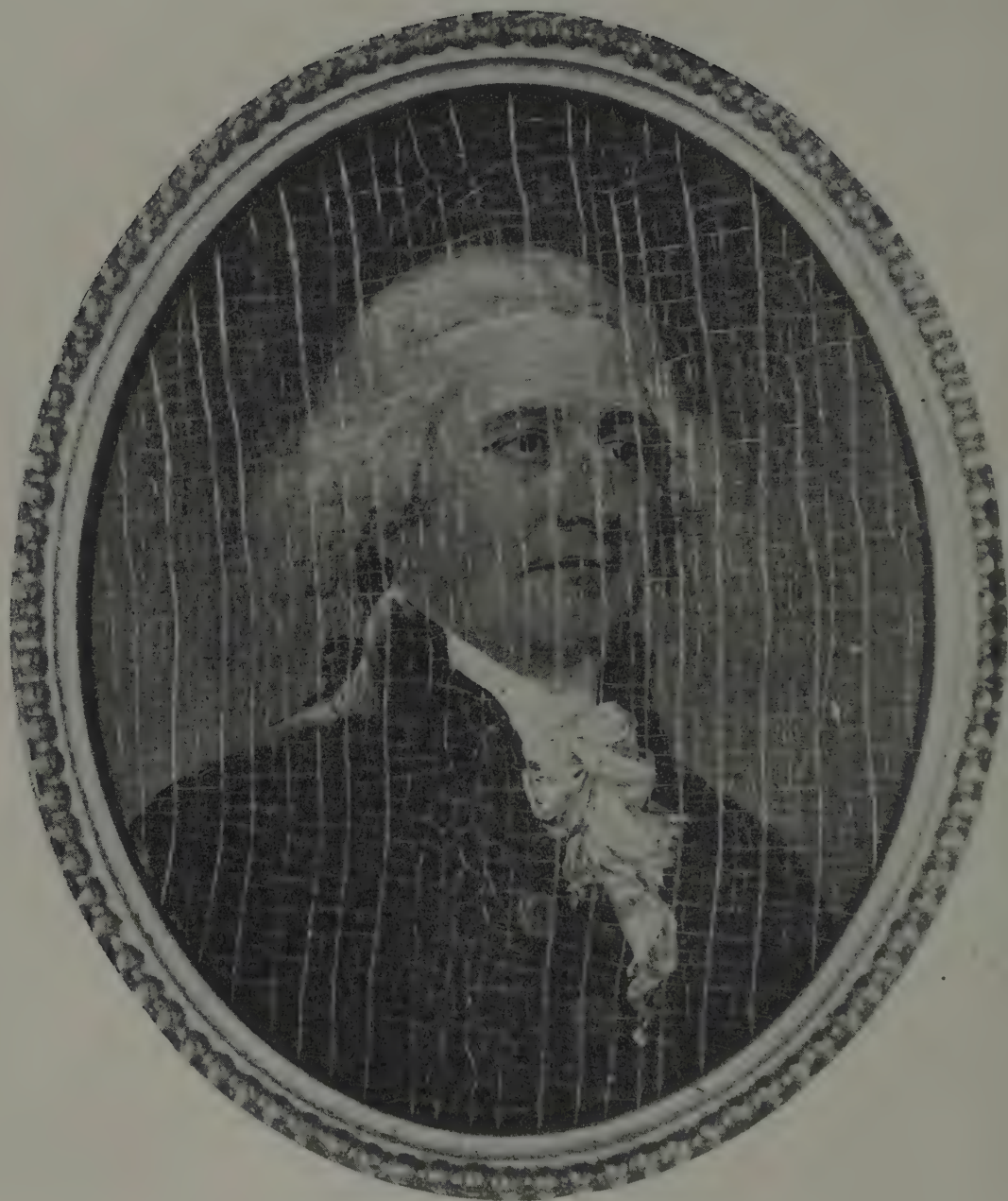
"Born and educated in America, I embraced its cause in the last revolution, and remained throughout faithful to its interest, until its triumph over its enemies: This occurrence has now rendered my services useless, discharged me of my pledge, dissolved my obligations, even those of nature, and left me at liberty, after having fought for her happiness, to seek my own; circumstances and the policies of the United States having made it impossible for me to obtain this desired end under its Government, I am resolved to seek it in Spain, where I trust that my conduct shall be directed by such principles of loyalty and justice in my relations with my fellow-citizens as to assure the tranquillity of my conscience and that my name be handed intact to posterity.

"Thus, not only the respect for my own reputation, which I love infinitely more than life, but also that which I profess for you Gentlemen, to whom I have the honor of addressing myself, have induced me to suppose that in any event of my future career I may depend on you as depositaries of my honor, to give testimony that my principles and the motives which prompted my conduct are the good of the country in which I live and the interest and aggrandizement of the Spanish Monarchy: in faith of which I sign herewith on the 22nd day of August, in the year of our Lord 1787.

"James Wilkinson."

"*Certificate:* New Orleans, February 15, 1908. The foregoing are true copies of the originals that remain in the care of Dn. Miguel de Pontalba, Senlis, France, to which I refer and with which they have been compared: in faith of which I sign herewith and on the day and month supra.

"J. W. Cruzat."



JOHN BROWN
(1757-1837)

Miniature by John Trumbull, in Gallery of Fine Arts, Yale University.

CHAPTER XXVII

KENTUCKY SEEKS ADMISSION: SPAIN'S OVERTURE

While Wilkinson was in New Orleans, the people of Kentucky felt themselves outraged by what they considered further proofs that Congress and the Virginia government cared little about protecting them from the Indians. Their complaint is strongly presented by Littell, who said that in consequence of representations by the Virginia executive to Congress,

“that body on the 21st of July passed two resolutions professedly with a view of giving protection to this remote and afflicted country, but which were in reality merely an insult and mockery of their distress.

“By the first resolution congress declared that it was their intention with the regular troops consisting of *one regiment to give effectual protection to the frontier inhabitants of Pennsylvania and Virginia, from the incursions and depredations of Indians, to prevent intrusions on the federal lands, and promote a favorable issue to the intended treaty.* The frontier proposed to be *effectually* protected with one regiment was 700 miles in length, and infested with Indians in its whole extent. One company and a half was to remain at Venango, Fort Pitt, and Fort M’Intosh, for the protection of the western part of Pennsylvania; these were between 3 and 4 hundred miles from the nearest settlements in Kentucky. One at Muskingum, about 150 miles lower down; one at the mouth of the Miami; three at Post St. Vincennes, 100 miles from the nearest part of Kentucky, and the remainder at the rapids of the Ohio. It is manifest that the primary object of this measure was more hostile to the Whites than to the Indians; to prevent intrusion on the public lands, not to protect the people of Kentucky. All the troops except those at the falls of Ohio were stationed at such a distance from the then settled parts of the country as to be of no service to the people.

“The second resolution requested the executive of Virginia to order the militia in the district of Kentucky to hold

themselves in readiness to unite with the federal troops in such operations as the officer commanding the same might deem necessary for the protection of the frontiers; and that on the application of said commanding officer, one thousand of said militia should take such position as he should direct, for acting in conjunction with the federal troops against the hostile Indians.

"This resolution might have been productive of great advantage, but the executive of Virginia restricted and embarrassed it in such a manner as to render it utterly nugatory. The governor . . . directed that the 'militia be in readiness at all times to unite with the federal troops in such operations as the officer commanding them shall judge to be necessary. *You are not however . . . to consider yourself at liberty to embody any part of the militia for the purpose of carrying into execution the above mentioned act, until you receive official orders from the executive for that purpose.*'

"Nothing could have been more preposterous and absurd than this order; the nearest county lieutenant in the district to the seat of government was more than 500 miles distant, 200 of this was through a dangerous and uninhabited wilderness, constantly infested with hostile Indians. If the officer commanding the federal troops should on any emergency want the co-operation of the militia, he must make a requisition on the county lieutenant, *he* must send a messenger through this wilderness to the governor of Virginia; if this messenger by accident (for it would indeed have been an accident) escaped being murdered on the way, and reached the governor, *he* must call his council, and they decide the question whether the officer had in reality any occasion for the assistance of the militia, or whether the requisition originated in conceit, whim, or caprice; if they determined that the requisition was reasonable, the messenger might return alive (if he could), convey the intelligence, and the county lieutenant begin to embody his troops; but by this time the white inhabitants might have been all massacred and putrified, or the Indians (if an attack was the object) have fled to Canada.

"This conduct in the United States and in the executive of Virginia added to the large stock of melancholy experience which the people of Kentucky had already acquired, was sufficient to confirm them in a belief that all their hopes of happiness or safety, if not of existence itself, must depend on a separation from the parent state. They therefore proceeded under the second act of separation to elect members

of a convention once more to decide on the propriety of a separation."¹

This (fourth) Kentucky convention was held at Danville on September 17, 1787, with thirty-four delegates present, to consider the terms of Virginia's second act of separation. Col. Samuel McDowell was again elected president, and the debates extended over a period of five days, but there was very little difference of opinion as to the advisability of separation. As Colonel McDowell wrote:

"The Convention for the District of Kentucky Yesterday came to a Solemn Voate on the Business of a Separation from Virginia, and thirty two out of thirty four (being the number of Delegates Present), were in favour of the Separation. The time fixed on for the Authority of Virginia over the District to cease for ever, is the 31st day of December, 1788."²

The convention also sent an address to Congress praying its assent to Kentucky's admission to the Confederation, and requested the Virginia Assembly to appoint a Kentucky delegate in Congress to further the district's interests in securing the admission. The Assembly complied with this request by appointing John Brown, who was at this time a state senator. He accordingly left Richmond for New York, where he lived in the same house with his intimate friend and fellow-delegate, James Madison, until his return to Kentucky the next year. They discussed much the political problems of Kentucky, and the proposed Federal Constitution, which both strongly favored.

The convention which framed the Constitution had been called only to recommend reforms of the existing Articles of Confederation; but, after a long debate behind closed doors, the delegates framed an entirely new instrument. In September, 1787, they recommended it to the people of the thirteen states for adoption. In nearly all of them it was strongly opposed and the issue was long extremely doubtful. In the Virginia Convention called to consider it, the debate was especially full and able. The main difference dividing the members was not over the desirability of a stronger union of the states, nor over any specific clauses in the proposed constitution (however warm may have been the contest

¹ *Political Transactions*, pp. 23-4.

² *Draper MSS.*, 9 D D 46, McDowell to A. Campbell, Sept. 23, 1787.

over some of them), but it was over the question whether Virginia's ratification should be made conditional on certain fundamental amendments being first added to the instrument. George Mason, Patrick Henry, James Monroe, and other great leaders considered these amendments necessary to secure the liberties of the people.

Ten of the amendments were afterwards adopted, and they have proven needed bulwarks of popular rights. They guarantee religious liberty, freedom of speech, freedom of the press; the right to bear arms and to petition against grievances; the right to be secure against unreasonable search and seizure; the right of a person accused to a speedy trial by jury, to be informed of the nature of accusations, to be confronted by witnesses, and to have counsel. They prohibit compulsory quartering of troops on the people; compelling an accused person to testify against himself; depriving one of life, liberty, or property without due process of law; the taking private property for public use without just compensation; and cruel and unusual punishments. The amendments then provide that the enumeration of rights given to the Federal Government shall not impair others retained by the states, and that powers not delegated to the United States, nor prohibited to the states, are reserved to the states, or to the people.

Of the fourteen Kentucky delegates to the Virginia convention, only three voted to adopt the Constitution without previous amendments.³ Col. George Nicholas, who advocated adoption without amendments, wrote Mr. Madison:

"The only danger I apprehend is from the Kentucky members, and one consideration only has any weight with them; a fear that if the new government should take place, the navigation would be given up."⁴

This was an overstatement. Certainly the Kentucky members had been alarmed by a reported remark of Col. Henry Lee (another champion of adoption) "that the surrender of the Mississippi would probably be among the early acts of the new Con-

³ The three were Robert Breckinridge, Rice Bullock, and Humphrey Marshall. (Elliott's *Debates on the* *Federal Constitution*, III:654-5.)
⁴ Hunt's *Writings of Madison*, V: 114, note.

gress;"⁵ but we have no reason for doubting that their main objection to adoption was the same which controlled the votes of the eastern opponents, namely, the need for amendments securing popular rights.

Shortly after the proposed Federal Constitution was made public by the convention which framed it, copies, printed on a single folio and signed by Washington, were distributed through the states. One was received by the Political Club and subjected to earnest discussion, section by section, for four months, ending in May, 1788. These discussions, let it be understood, ended *before* the Virginia Convention met to consider the same problems.

The first debate of the club was over the great question which split that convention, namely, whether "the Constitution ought to be preceded by a bill of rights," and the club resolved that it should be. Several others of its resolutions are interesting: that there should be two branches of the federal legislature; that the Senate should elect its own presiding officer; that the Supreme Court should pass upon the constitutionality of an act of Congress before the President should approve it; that a President should be ineligible for reelection until four years after his term of office expired; that the word "enforce" should be substituted for "execute" in Article I, Section 8, clause 16, which provides "for calling forth the militia to execute the laws."⁶

Another resolution of the club, concerning slavery, seems surprising when it is remembered that a valuable part of the estate of nearly every member doubtless consisted of slaves. The Federal Constitution provided that the importation of slaves should not be prohibited prior to the year 1808. The club resolved that this provision should be expunged; thus leaving Congress empowered to stop the importation immediately.

As the members of the club fairly represented their class of leading men throughout the District of Kentucky, the foregoing

⁵ Randolph to Madison, Library of Congress, *Madison Papers*, Ac. 1081.

⁶ Mr. Speed says: "This nice distinction in the use of words was well taken. The regular execution of the laws of the United States is the work of civil officers. There is no

need to call out the militia to 'execute' the laws. That is done in regular course. It is only in cases of emergency that the militia can ever be needed, and then it is more proper to use the word 'enforce' than the word 'execute'." (*Political Club*, p. 149.)

references to the minutes should be sufficient proof that the navigation of the Mississippi, vital as it was to the Kentucky people, by no means obscured their vision of the great governmental problems submitted to the States by the framers of the Federal Constitution.

Undoubtedly many persons and some leading men in Kentucky were opposed to giving the Federal Government such powers as would be vested in it by the Constitution, and there were causes for this opposition which greatly concerned the Kentucky people, but were little appreciated in the East. They had experienced, as they believed, many years of shameful neglect and injustice from the Continental Congress, and many suspected they would fare no better under a new one. They saw that under the new Constitution there would be the same northern majority of states which, during the Revolution, had tried to appropriate them and their lands for the benefit of the northern people and the land companies. They saw that the four little New England states, with less than three-fourths Virginia's population, would be given four times as many votes in a Senate which could block all Federal legislation. They well knew they were looked upon by many northeastern people as only lawless backwoodsmen, and this made them none too friendly to a government which could be dominated by the New England and Middle States. They doubtless expected that the same motives which had made the old Congress much more concerned about the survey and sale of its public lands north of the Ohio than about the protection of the Kentucky people from its Indian subjects,⁷ or the assertion of their vital right to navigate the Mississippi, would make the northern members of the new Congress no less indifferent to their sufferings and rights. Under all the circumstances, whatever may be thought of the wisdom of the general opposition in Kentucky to the adoption of the Federal Constitution, it must be conceded that it was very far from being irrational.

While its adoption was being debated and voted upon by the various states, Mr. Brown, in pursuance of his special mission in Congress, was exerting every effort to secure its assent to Kentucky's admission to the Union. On February 29, 1788, he offered

⁷ *St. Clair Papers*, II:14.

a resolution to that effect.⁸ Every member knew that if the assent of Congress were to be given at all, prompt action on this resolution was imperative; for the Virginia act had made Kentucky's separation depend upon the assent being given before July 4, 1788. If before that day nine of the states adopted the new Constitution, it would become operative, whilst the Continental Congress would become defunct and incapable of giving its assent.

Mr. Brown's resolution, however, met fatal delays. He thought the northern members were loath to admit another southern state to destroy their majority in Congress. Five days were allowed to pass, with nothing done, when on March 4th a committee of the whole considered it. Then nearly three months more of precious time were lost before the committee again met to consider it. Meantime almost enough states had voted for adoption of the Federal Constitution to make it operative and leave the Continental Congress powerless to assent to Kentucky's admission.

On June 2nd the committee of the whole declared it "expedient that the District of Kentucky be erected into an independent state"—and nothing more. Afterward a committee, made up of a member from each state, was appointed to draw up an act giving the assent of Congress. Thereupon, despite Mr. Brown's urging, another month passed with nothing done. Then, on July 2nd, this committee was discharged! Again Mr. Brown moved that Congress give its assent to Kentucky's admission, and this motion was taken up July 3rd. After being read, however, it was postponed and a resolution adopted reciting that the ninth state had ratified the Constitution, and therefore Congress was powerless to admit Kentucky into the Federal Union, but that, as Congress believed it expedient that Kentucky should be admitted, its inhabitants and Virginia should take steps to secure admission to the Union under the new Constitution. This resolution was directed to be transmitted to the president of the Kentucky Convention, Colonel McDowell.

Thus, by its own procrastination, Congress had made itself incapable of receiving Kentucky into the Confederation, and the hope of separation was needlessly and indefinitely deferred.

⁸ See *Journal of American Congress* (Way & Gideon edition) for February, 1788, Volume IV; also *Littell's Political Transactions*, pp. 88-9.

Shortly after this action of Congress, Gardoqui, whose commercial treaty had been defeated by Wilkinson's fabrications, resorted to another scheme to get Kentucky's secession and alliance with Spain. Instead of further trying to influence Congress to surrender the use of the Mississippi and thus provoke the Kentuckians into secession, he now aimed to accomplish the same end by offering to open the river for their use. Of course he would make the offer conditional, however.

To effect this purpose he sought an interview with their representative, Mr. Brown. The latter had just received letters from Colonel McDowell and Judge Muter requesting information as to the status of the navigation negotiations, and he was therefore naturally quite willing to hear and report what Gardoqui had to say about them. The Spaniard suggested that Spain would be willing to open the river "if Kentucky will declare her independence and empower some person to negotiate with him, . . . but that this privilege can never be extended to them while part of the United States, by reason of commercial treaties existing between that court and other powers of Europe."⁹

The unresponsive reception Mr. Brown gave Gardoqui's overture, and what was done about it afterward, are explained in the introduction to Littell's *Political Transactions*.

As requested by them, Mr. Brown promptly wrote Colonel McDowell and Judge Muter reporting what Gardoqui had said to him and indicated that the information should be considered confidential. There was great reason to do this; for, infuriated as the Kentucky people were over the failure of Congress to assent to their statehood and the recent attempt to bargain away their navigation right, had Gardoqui's offer been made known to them in all probability their demand for its acceptance, and for secession in order to get the navigation, would have proven irresistible.

In February, 1788, Wilkinson returned to Kentucky "in a chariot with four horses," says his enemy Humphrey Marshall,¹⁰ and began making arrangements for his export business. He came to the West moneyless, however, and by reason of his ostentatious style of living, land speculations and the debts he had

⁹ Brown's *Political Beginnings*, p. 146; Green's *Spanish Conspiracy*, p. 160.

¹⁰ *History of Kentucky*, I:283.

contracted, he was probably always insolvent. At New Orleans Daniel Clark had advanced him \$3,000,¹¹ and with this and on credit he was busily engaged through the spring and summer in employing agents, buying tobacco, hams, flour and other Kentucky products, and arranging for boats and men to take them to New Orleans. Tobacco, which he bought in Kentucky for \$2 a hundredweight, usually on credit, brought \$9.50 a hundred in New Orleans.¹²

The fifth Kentucky convention was held at Danville in July, 1788, and Wilkinson was a delegate. In May previously he wrote Miro:

"I will in the meantime employ myself in sounding out public opinion and form judgment of the influence of those elected. . . . I shall at the opportune moment, and when circumstances justify it, develop our great political designs."¹³

About the time the delegates assembled, the president, Judge McDowell, received the resolutions of Congress of July 3, declining to act on Kentucky's admission to the Union. This news aroused a storm of indignation. The failure of the object for which the people had striven so long and patiently, provoked bitter denunciation of the Continental Congress. Its failure to act on Kentucky's admission before the Confederation expired left the people of the district facing complex problems of legal power and political expediency with reference to their sorely-needed statehood. Virginia had twice given her consent to this and had authorized them, through their representatives in convention, "to frame and establish a fundamental constitution of government for the proposed state;" but she had conditioned this authority upon the assent of the Continental Congress. Virtually, however, neither Congress nor Confederation longer existed. The condition had become an impossible one. Therefore leading lawyers and judges in the convention were of opinion that the compact of separation between Virginia and Kentucky was no longer conditional upon any act of the non-existent Congress. They doubtless reasoned that the condition of admission to the Confederation was intended to be based on the continued exist-

¹¹ *Pontalba Papers*, p. 81.

¹³ *Pontalba Papers*, p. 76.

¹² *Clark's Corruption of Wilkinson*, appendix p. 9.

ence of the Confederation, and therefore became null when it ceased to exist.

Certainly the convention took that view. With apparent unanimity it passed resolutions the nature of which is indicated by their preamble, reading as follows:

“Whereas it appears to the members of this convention, that the United States in Congress assembled, have for the present, declined to ratify the compact entered into between the legislature of Virginia and the people of this district, respecting the erection of the district into an independent state; in consequence of which the powers vested in this convention are dissolved, and whatever order or resolution they pass cannot be considered as having any legal force or obligation; but, being anxious for the safety and prosperity of ourselves, and constituents, do earnestly recommend to the good people [to elect delegates to a new convention in November] and that they delegate to their said representatives full powers to take such measures for obtaining admission of the district, as a separate and independent member of the United States of America, and the navigation of the Mississippi, as they may appear most conducive to those important purposes; and also to form a constitution of government for the district, and organize the same when they shall judge it necessary—or to do and accomplish whatsoever, on a consideration of the state of the district, may in their opinion promote its interests.”¹⁴

The resolutions following this preamble recommended election of delegates to another (sixth) convention to be held in November to act on these recommendations.

Wilkinson afterward explained his own conduct and aims in the July convention, mixing facts and falsehoods as usual and saying:

“The question of separation from the United States, although discussed with vehemence among the most distinguished inhabitants of this section of the country, had never been mentioned, in a formal manner, to the people at large. . . . I had to work on a ground not yet prepared for the seed to be deposited in it, and I felt that to produce a favorable impression I had to proceed with reserve. . . . For these

¹⁴ See resolutions in full, Littell's *Political Transactions*, p. 94, and Marshall's *Kentucky*, I:290.

motives, I gave an equivocal shape to the expression of my design, speaking of it in general terms, as being recommended by eminent politicians of the Atlantic coast, with whom I had conversed on this affair. . . .

"I was thus occupied until the 28th of July, on which day our Convention met at Danville, in conformity with the ordinance you saw in the Gazette which I sent you by Major Dunn. The Honorable Samuel McDowell, President of the Convention, had, the day before, received a packet from the Secretary of Congress, containing an account of the proceedings of that body on the subject which excited our solicitude—that is, our intended separation from the State of Virginia. . . .

"From this proceeding of Congress it resulted, that the Convention was of opinion, that our proposed independence and separation from Virginia not being ratified, its mission and powers were at an end, and we found ourselves in the alternative, either of proceeding to declare our independence, or of waiting according to the recommendation of Congress. This was the state of affairs, when the Honorable Caleb Wallace, one of our Supreme Judges, the Attorney-General Innis, and Benjamin Sebastian proposed a prompt separation from the American Union [!] and advocated with intrepidity the necessity of the measure.¹⁵ The artifice of Congress was exposed, its proceedings reprobated, the consequences of depending on a body whose interests were opposed to ours were depicted in the most vivid colors, and the strongest motives were set forth to justify the separation. The arguments used were unanswerable, and no opposition was manifested in the course of the debates. It was unanimously conceded that the present connection was injurious to our interest, and that it could not last any length of time. Nevertheless, sir, when the question was finally taken, fear and folly prevailed against reason and judgment. It was thought safer and more convenient to adhere to the recommendations of Con-

¹⁵ This measure, which was offered by Wallace or by Wilkinson—it is not clear which—is quoted in Green's *Spanish Conspiracy*, p. 182, and contains no such aim as Wilkinson here indicates. It reads: "A resolution, declaring that the powers of this convention so far as depends on the acts of the legislature of Virginia were annulled by the Resolutions of Congress, and resolv-

ing that it was the duty of this convention as the representatives of the people to proceed to frame a constitution of government for this district, and to submit the same to their consideration with such advice relative thereto as emergency suggests, was read.

"Ordered, that the said resolution be committed to a committee of the whole convention."

gress, and, in consequence, it was decided that the people be advised to elect a new Convention, which should meet in the month of November, in conformity with the ordinance which you will find in the Gazette, No. 2."¹⁶

During the interval between the July and November Kentucky conventions, Judge Muter, having received Mr. Brown's confidential letter informing him of Gardoqui's proposal, instead of treating the information confidentially, was reluctantly induced to show the letter to Colonel Marshall. The latter, no doubt influenced by his suspicious son-in-law, most unjustly interpreted the letter as showing Mr. Brown conspiring with Gardoqui to detach Kentucky from the Union. (For full discussion see *Political Transactions*.)¹⁷ Thereupon a warm controversy arose over both the legal right and the expediency of immediate separation from Virginia. One faction contended that such proceedings would not only be inexpedient but illegal; that the only lawful way to procure separation was to apply again to Virginia and after procuring her consent, apply to the Federal Congress when it should come into existence the next year.

The separatists contended that this legal objection was unsound for the reasons already stated; and furthermore that, so far from its being inexpedient "to frame and establish a fundamental constitution of government" for Kentucky, such as was provided for in the separation act of Virginia, the establishment of such a government would not only be of the greatest benefit to the people, but would assure them an early admittance of their new state into the Union. They contended that if Kentucky remained part of Virginia it would take years for the District, the State and the Federal Congress to agree on identical terms and time of separation and admission; and from previous experience, opposition and long delays were to be apprehended from northern delegates in the new Congress. If Kentucky were an independent state, however, Congress would fear to refuse it prompt admission, lest it part with the United States and form some connection with Great Britain or Spain. In that case the public lands north of the Ohio, upon which the Federal Government relied for credit,

¹⁶ Gayarré's *Spanish Domination*, pp. 223-227. See also *Pontalba Papers*.

¹⁷ Supra. Present author's introduction.

would be rendered unsalable, and probably the inhabitants there would follow Kentucky out of the Union.

On October 15, 1788, Judge Muter signed and published an address, written by Colonel Marshall to the people of his County of Fayette, contending that "forming a constitution of government and organizing the same, before the consent of the Legislature for that purpose first obtained, will be directly contrary to the letter and spirit of the act of Assembly." It urged the inhabitants of Fayette to instruct their delegates not to agree to form such a state government until Virginia again gave her consent, nor to apply to any source for the navigation of the Mississippi other than to Virginia and Congress.¹⁸

Shortly before or after the publication of this address, a movement of the British to secure Kentucky's alliance by promising to aid them in attacking Louisiana and securing the navigation of the Mississippi, was made by Colonel Connolly. His lands at Louisville had been escheated in 1780, and his ostensible reason for visiting Kentucky was to learn if he could recover them. He visited General Wilkinson and also Colonel Marshall and Judge Muter, and both Wilkinson and Marshall reported their interviews with him. Wilkinson wrote Miro:

"The British Colonel Connelly, who is mentioned in General St. Clair's letter, arrived at Louisville in the beginning of October, having travelled from Detroit through the woods, to the mouth of the river Big Miami, from which he came down the Ohio in a boat. My agent in that town [Louisville] gave me immediate information of that fact, and of the intention which Connelly had to visit me. Suspecting the nature of the negotiations he had on hand, I determined, in order to discover his secret views, to be beforehand with him, and to invite him here. Consequently he came to my house on the 8th. of November. I received him courteously and, as I manifested favorable disposition towards the interests of his Britannic Majesty, I soon gained his confidence—so much so that he informed me that Great Britain, desiring to assist the American settlers in the West, in their efforts to open the navigation of the Mississippi, would join them with ready zeal, to dispossess Spain of Louisiana. He remarked that the forces in Canada were not sufficient to send detachments of them to us, but that Lord Dorchester would supply

¹⁸ Marshall's *Kentucky*, I:296-7.

us with all the implements of war, and with money, clothing, &c. . . . to equip ten thousand men, if we wished to engage in that enterprise. He added that, as soon as our plan of operation should be agreed upon, these articles would be sent from Detroit, through Lake Erie, to the river Miami, and thence to the Wabash, to be transported to any designated point on the Ohio, and that a fleet of light vessels would be ready at Jamaica to take possession of the Balize, at the same time that we should make an attack from above. He assured me that he was authorized by Lord Dorchester to confer honors and other rewards on the men of influence who should enter on that enterprise, and that all those who were officers in the late continental army, should be provided with the same grade in the service of Great Britain. He urged me much to favor his designs, offering me what rank and emoluments I might wish for, and telling me at the same time that he was empowered to grant commissions for the raising of two regiments which he hoped to form in Kentucky. After having pumped out of him all that I wished to know, I began to weaken his hopes by observing that the feelings of animosity engendered by the late revolution were so recent in the hearts of the Americans that I considered it impossible to entice them into an alliance with Great Britain; that in this district, particularly in that part of it where the inhabitants had suffered so much from the barbarous hostilities of the Indians, which were attributed to British influence, the resentment of every individual was much more intense and implacable."¹⁹

Connolly's proposal to Colonel Marshall and Judge Muter was substantially like the one to Wilkinson. Its nature and the reception given it were explained at length by Colonel Marshall in a letter which appears in full in the introduction to Littell's *Political Transactions*, lxiv.

¹⁹ Gayarré's *Spanish Domination*, pp. 235-6.

CHAPTER XXVIII

STATEHOOD CONTROVERSY ENDED

In the November, 1788, convention the Marshall faction was ready to oppose any movement for separation without renewed consent from Virginia and assent from the future Federal Congress to Kentucky's admission to the Union. The minutes of the convention, however, show no such movement. On the contrary, the convention unanimously resolved to apply again to the Virginia Assembly for its consent to Kentucky's separation at a future date, and adopted an address to the Assembly praying for this and begging "the friendly interposition of the parent state with the Congress of the United States for a speedy admission of the District into the Federal Union," and also "to urge that honorable Body in the most express terms to take effectual measures for procuring to the Inhabitants of this District the free Navigation of the River Mississippi, without which the situation of a large part of the community will be wretched and miserable, and may be the source of future evils."¹

As the Federal Congress would not be organized until the next year, of course no earlier application could be made to it for Kentucky's admission.

Mr. Brown, who had returned to Kentucky and was a member of the convention, offered, however, the following resolution, which is significant in view of the charge afterward made against him by Humphrey Marshall, that he was then conspiring with Gardoqui to detach Kentucky from the Union:

*"Resolved, That it is the wish and interest of the good people of this District to separate from the State of Virginia and that the same be erected into an independent member of the Federal Union."*²

¹ *Political Beginnings* (Brown), pp. 262-3. ² *Id.* p. 259.

Pretending to explain his own course in this convention to Miro, Wilkinson soon afterward wrote him:

"I thought it was more judicious to indulge those who, for the moment, wish only that a new application be made in relation to the independence and separation of Kentucky from Virginia, and that a memorial be addressed to Congress on the necessity of obtaining the free use of the navigation of the Mississippi. I assented to these last propositions the more readily, that it was unanimously resolved [a fabrication!] that, should any of them be rejected, then the people would be invited to adopt all the measures necessary to secure for themselves a separate government from that of the United States, because it would have become evident that Congress had neither the will nor the power to satisfy their hopes. I determined therefore to wait for the effects which will result from the disappointment of these hopes. . . . The same effect will be produced by the suspension of the navigation of the Mississippi, which lies entirely in the power of Spain, and which must reduce this section of the country to misery and ruin; and, as it has been stipulated that the operations of the Federal Government shall be uniform, the new Congress will have to lay taxes, without exception whatever, over the whole country submitted to its jurisdiction. The people here, not having the means of paying those taxes, will resist them, and the authority of the new government will be set at naught, which will produce a civil war, and result in the separation of the West from the East."³

Wilkinson then recommends that Gardoqui should renew his treaty proposal to Jay, including American forbearance of the use of the Mississippi for twenty-five or thirty years, and that during that period the river should be kept closed except to the few "who understand and promote the interest of Spain in this part of the country."⁴

Nothing better displays Wilkinson's extraordinary genius for plotting and handling men than the shrewd way he led his trusting friends in the convention, and even his suspicious enemies, to make its proceedings serve his purpose to deceive Miro. His audacity and success in fooling and using these enemies makes an interesting and amusing story.

³ Gayarré's *Spanish Domination*, pp. 227-34; also *Pontalba Papers*.

⁴ Id.

The convention minutes⁵ show that the first day of the session Judge McDowell was unanimously elected president and it was "Resolved, That this Convention will To-morrow resolve itself into a Committee of the whole Convention to take into Consideration the present state of the District."

The next day the convention:

"Ordered, That the papers and Resolutions of Congress, the Resolves of the Convention, passed on the 22nd day of September, 1787, relative to a separation of this District from the State of Virginia together with the address from the Convention to Congress, be referred to a Committee of the whole Convention."

Of this committee of the whole convention Wilkinson was always chairman, except on one unimportant occasion and another very important one when, to effect his aims, he left the chair. It was on this last occasion that his finesse reached its astonishing climax.

The first act of the convention, other than such as concerned only procedure, was to resolve:

"That a Committee be appointed to draw up a decent and respectful address to the Assembly of Virginia for obtaining an Independence of the District of Kentucky agreeable to the late resolution and recommendation of Congress."

Wilkinson was a member of this special committee. Next, in committee of the whole, it was resolved "that a decent and respectful address be prepared, requesting Congress to take immediate and effective measures for procuring the navigation of the said river."

Thereupon a special committee was appointed to prepare this address to Congress and Wilkinson was made a member of it also. Then came the motion of Mr. Brown to resolve: "That it is the wish and interest of the good people of this District to separate from the State of Virginia, and that the same be erected into an Independent member of the Federal Union." The adoption of this resolution would have ruined Wilkinson's plan to make Miro think the convention favored Kentucky's secession from the

⁵ They appeared in the *Kentucky Gazette*, Jan. 30th and Feb. 5th and are copied in *Littell's Political Transactions*, Appendix XIX.

Union, and action on it was postponed. Two days later the minutes accordingly recite:

"The Convention met according to Adjournment.

"A motion was made by Mr. Wilkinson for the Convention to come to the following resolution, which was read and agreed to as follows, viz:

"Whereas, it is the solemn duty, so it is the ardent desire of this Convention, to pursue such measures as may promote the Interests and meet the approbation of their Constituents; but the discordant opinions which at present divide the good people they represent, render it doubtful whether they can adopt any plan which will embrace the opinions of all, or even secure the support of a majority. In this state of embarrassment—perplexed with doubts and surrounded by difficulties—in order to avoid error and to attain truth, to remove the Jealousies which have infected society, and to restore that spirit of harmony and concord on which the prosperity of all depends, They deem it most eligible to address their Constituents on the momentous occasion. Therefore,

"Resolved, That a Committee be appointed to draft an address to the good people of the District, setting forth the principles and motives from which this Convention act; representing to them their true situation, urging the necessity of union, concord, and mutual concession, and solemnly calling upon them to furnish this Convention, at their next session, with instructions in what manner to proceed on the important subject to them submitted."

Of this committee to address the people Wilkinson was made chairman. Next day—the last day of the convention—as chairman of the special committee to address Congress, he presented a characteristically florid one which the convention adopted. On the same day, as chairman of the committee which had been appointed to address the people, he reported one which was referred to the committee of the whole convention, and does not appear to have been acted on.

Then came the most astonishing part of the whole proceedings. Wilkinson left the chair, and on the floor read what he professed was his Memorial to the Spanish King! Of course he lied, and really read only such parts as suited his own purpose; but that not even his enemies in the convention questioned the rectitude of his motive in sending his Memorial to Madrid was shown when President McDowell resumed the chair and the con-

vention, apparently without dissent, adopted the following amazing resolution:

“Resolved, That this Convention highly approve the Address presented by Gen’l James Wilkinson to the Governor and Intendant of Louisiana, and that the President be requested to present him the thanks of the Convention for the regard which he therein manifested for the Interest of the Western Country.”

The traitor had managed to make the minutes of the convention a convincing record to show Miro to prove his preeminent influence amongst the delegates representing all the people of Kentucky. He had accomplished far more. From these minutes the Spaniard would see that the delegates, without a single recorded dissent, after hearing the Memorial read, approved it; and, unless he believed Wilkinson read a very different paper from the one he had himself received, he must have thought they had been secretly won over to the scheme to carry Kentucky out of the Union.

Still another resolution was needed to complete Wilkinson’s triumphant scheming, namely, an authentic report of the convention’s proceedings to send to Miro; and this he obtained when the convention “Ordered, That the Printer of the *Kentucky Gazette* be requested to publish the proceedings of this convention.” This was done. The *Gazette* published the minutes and Wilkinson promptly sent a copy to Miro.⁶

After the November convention Wilkinson plunged deeply into the business of buying Kentucky products and selling them in New Orleans. In this he was greatly handicapped, however, in many ways. His means were small and his debts many. He had come to Kentucky virtually bankrupt. Although pretending to come as a partner in a large commercial house at Philadelphia, he was in fact no more than a traveling agent, selling for it on commission small quantities of goods in the scattered settlements of Kentucky and Tennessee.⁷ He courted successfully nearly all prominent Kentuckians of property, borrowed from whomsoever he could, and endeavored to keep up the appearance of a man of means by ostentatious living and speculating largely in lands for which he had no money to pay.

⁶ *Pontalba Papers*, p. 129.

⁷ *George Rogers Clark*, p. 261.

His coveted trade with New Orleans proved far less profitable than he expected and soon involved him deeper in debt. Besides innumerable difficulties and delays in hiring men, building boats and buying produce on credit, his boats going down the rivers were exposed to many mishaps and their cargoes to injury and pillage; while having the proceeds of his sales in New Orleans brought back to Kentucky, either up the rivers, or through a thousand miles of Indian-infested wilderness, involved much expense and required great care and secrecy to prevent loss. Nor were these handicaps all. He was unable to give to this business the undivided attention necessary for successful management. His constant and ever busy plotting to deceive both Miro and the Kentuckians about his real aims, and to cover them up lest his treason be discovered and punished, must have interfered sadly with his efforts to profit by his trade privilege.

Within ten months after the November, 1788, convention he was asking Miro for \$18,500, as the first instalment of annual remittances for bribing many prominent Kentuckians to become his co-conspirators and pensioners of Spain. The list of names Wilkinson sent Miro (with the amounts required for each) included the most eminent and highly esteemed men of the district—Judge McDowell, Isaac Shelby, Alexander Scott Bullitt, Judge Innes, Col. Benjamin Logan, Col. Richard Taylor, Col. Robert Johnson, John Brown, Col. Thomas Marshall, Col. George Nicholas, and others—twenty-two in all.⁸ Had the impecunious traitor received the first instalment, we may be very sure none of it would have gone to any of these worthy men, unless perhaps to pay some part of his debts owing them. With some hesitation, Miro advised the Madrid government to let him send Wilkinson this bribe-money, but this it declined to do.

Soon Wilkinson became undeniably bankrupt, and was compelled to make an assignment for the benefit of his creditors, who probably got very little from it. From this time forth, although receiving yearly a pension from Spain and still professing to further its design to detach Kentucky from the Union, his political activities in Kentucky nearly ceased, and he again entered upon a military career. His letters to Miro lost their tone of con-

⁸ See Littell's *Political Transactions*, supra, xlvii for list and amounts.

fidence about Kentucky's secession, and attributed the failure to secure it to Spain's permitting other Kentuckians than himself to trade with New Orleans. He argued that this removed their need to ally themselves with Spain. He said:

"The general permission to export the products of this country through the Mississippi River, on paying a duty of 15 per cent., has worked the consequences which I feared, because, every motion of discontent having thus been removed, the political agitation has subsided, and to-day there is not one word said about separation. . . . On my arrival here, I discovered a great change in those who had been so far our warmest friends. Many, who loudly repudiated all connection with the Union, now remain silent."⁹

Miro having asked to what Kentuckians Wilkinson had disclosed their scheme, the latter had to admit that he "had opened myself only to the Attorney General Innis, and to Colonel [Alexander Scott] Bullitt, who favor our designs, and indirectly I had sounded others, whom I also found well disposed to adopt my ideas."¹⁰

Miro's comment in his report to Madrid was:

"Although I thought with Wilkinson that the commercial concessions made to the Western people might deter them from effecting their separation from the United States, . . . yet I never imagined that the effects would be so sudden, and that the large number of influential men, whom Wilkinson, in his previous letters, had mentioned as having been gained over to our party, would have entirely vanished, as he now announces it, since he affirms *having no other aid at present than Sebastian*.

"I consider that I am exposed to err in expressing an opinion on the acts of a man, who works at six hundred leagues from this place, and who has undoubtedly rendered, and is still rendering services to his Majesty, as I have explained it in my other dispatches. But the great falling off which I observe in his last letters induces me to believe that, full of good will and zeal, and persuaded, from the experiences of past years, that he could bring round to his own opinions the chieffer men of Kentucky, he declared in anticipation that he had won over many of them, when he had

⁹ Gayarré's *Spanish Domination*, pp. 277-8. ¹⁰ Id. p. 224.

never approached them on the main question. Nevertheless, I am of opinion, that said brigadier-general ought to be retained in the services of his Majesty, with an annual pension of two thousand dollars."¹¹

Miro next recommends pensioning Judge Sebastian as a spy on Wilkinson, saying:

"I think it proper to treat with this individual, who will be able to enlighten me on the conduct of Wilkinson, and on what we have to expect from the plans of the said brigadier-general."

The recommendation by the November convention that another one be called for the first Monday in August, 1789, was not followed, because, shortly after the adjournment, news reached Kentucky that the Virginia Assembly on December 29, 1788, had passed still another (third) act of separation,¹² and fixed another date for another convention. This third act materially altered the second one, and greatly to the prejudice of the Kentucky people. It seriously hampered Kentucky's control of its ungranted lands by the following clause:

"Saving and reserving to the officers and soldiers of the Virginia lines, on state and continental establishment, their representatives and assignees, their rights to lands under the several donations of this commonwealth; who shall not be restrained or limited as to time in making their respective locations, or compleating their surveys by any thing in this act contained, nor by any act of the proposed state, without the future consent of the legislature of Virginia."¹³

The Kentuckians protested that this clause would deprive their new state of its most valuable asset, by rendering it forever powerless to sell to advantage any of its many millions of acres of ungranted lands; since, without Virginia's consent to the sale, any purchaser and his heirs would be forever liable to lose them to claimants under her military donations. It made Kentucky in a measure dependent on Virginia. The new act also provided for another (seventh) popular convention, to be held July 20th, 1789, at Danville, to decide again on the expediency of Kentucky's separation from Virginia.

¹¹ Id. p. 285-6. Author's italics.

¹² Hening's *Statutes*, XII:788-91.

¹³ *Political Transactions*, p. 108.

A few months after this third separation act was passed, the organization of the new Federal Government began under Washington. It was confronted with appalling difficulties, and was an experiment in democracy which many thought must fail. Many men who had been leaders of the extreme radical agitators in championing the principles of popular rights and republican government, after witnessing years of disorder under the Confederacy lost faith in their early principles, became convinced that the people at large were unfit for self-government and ought to be controlled by an upper class under a government essentially aristocratic, if not monarchical. John Adams and Alexander Hamilton were foremost representatives of this class, which soon became known as Federalists. On the other hand, amongst their early associates in championing freedom and popular government were many leaders who, despite the years of dissension under the loose-jointed Confederation, never wavered in their early faith and still advocated government by the people on "republican principles."

The line between these two political classes was not distinctly drawn, nor did they array themselves as the Federalist and Republican parties, until after the first years of Washington's administration; but the principles dividing them were everywhere, and often angrily, debated even before the Federal Constitution was adopted, and the gap between the political classes steadily widened.

The letters of the Kentucky leaders show nearly all of them were ardent believers in "republican principles." They had long looked upon Jefferson as the great protagonist and foremost friend of freedom and popular rights. Everywhere, indeed, Americans with republican leanings so regarded him; for he was well-known as the author of the Declaration of Independence and of the pioneer Virginia statute for religious freedom, and he had boldly overthrown the dominating landed aristocracy of that state by his statutes putting an end to the rule of primogeniture and the entailing of great estates.

Of the three Kentucky delegates in the Virginia Convention who voted to adopt the Federal Constitution, Humphrey Marshall was a violent Federalist; but there is no reason to believe that either Bullock or Breckinridge had any leaning toward federalistic principles. Presumably they were no less staunch friends

of popular rights than George Mason, Patrick Henry and James Monroe, but agreed with other equally ardent champions of those rights, such as James Madison, George Wythe and George Nicholas, that it was best to adopt the Constitution, as it was, and trust to securing essential amendments afterward.

CHAPTER XXIX

INDIAN WAR: HARMAR'S DEFEAT

Shortly before the seventh Kentucky convention met, the governor of Virginia received a letter from which he judged that the Federal Government would protect the people south of the Ohio from the Indians north of it, and thereupon issued the following unwise order to the county lieutenants of Kentucky which caused great resentment there, and was to lead to the loss of many lives:

“Richmond, June 1st, 1789.

“Sir:

“The inclosed copy of a letter from the President of the United States, rendering it unnecessary that this state should any longer, at her own particular charge, support the troops called into service for the defence of the western frontier; you will *immediately discharge all the scouts and rangers employed in your county*. In cases of any future incursions of the Indians, you will give as early information of them as possible to the officer commanding the continental post on the Ohio, nearest the point of attack. I have communicated to the President the instructions now sent you, and have no doubt but effective measures will be taken to protect all the inhabitants of the frontiers.

“You will, if possible, furnish me before the meeting of the next Assembly, with a statement of the whole expense incurred this year, for the pay and support of the scouts and rangers engaged in the defence of your county.

I am, Sir,

Your Obedient Servant,
Beverly Randolph.”¹

The indignation aroused in Kentucky by this order was strongly expressed by Littell as follows:

¹ *Political Transactions*, p. 110.
Author's italics.

"The executive of Virginia had heretofore authorized the lieutenants of the several counties to call into service scouts and rangers for the purpose of giving to the inhabitants the earliest intelligence of an invasion. . . . But the governor now wrote to the county lieutenants immediately to discharge all the scouts and rangers, and in future in case of depredations to make communication to the continental officer on the Ohio, stationed nearest to the place of attack, the defence of the country being in the hands of the general government.

"This was no trivial cause of alarm. The district presented a frontier [along the Ohio] of more than six hundred miles, and the regular troops, from the smallness of their number and the manner in which they were stationed could afford no efficient protection. The troops were all stationed beyond the extreme northern limit of the district; whereas the southern Indians were equally hostile as the northern. Not only this, but there were in all, but about six companies, and even part of them artillery; the remaining part were infantry, and on that account wholly incompetent to any effectual pursuit of the Indians, or even a safe retreat from them; as they generally made their escape on the horses which they had stolen from the inhabitants. But if these circumstances would not have rendered their aid inefficient, their distance from the settlements would; two thirds of the troops were stationed . . . more than sixty miles from the nearest settled part of Kentucky. Discharging the scouts and rangers deprived the people of the means of obtaining previous intelligence of danger; they must wait until the tomahawk and scalping knife were actually on their heads, *then* give information of it to the county lieutenant, and he make a formal communication to an officer sixty or perhaps an hundred and fifty miles distant, who, as soon as convenient, would send a party of men to their relief. The objection which Kentucky had to this mode of protection was, that long previous to the arrival of the troops, the citizens who had been attacked would all have been murdered and the enemy who had made the attack would have fled beyond the reach of pursuit. But this had been deemed by Virginia a matter worthy of no consideration."²

In Kentucky and throughout the Ohio Valley complaints began to be heard of the failure of the new Federal Government to secure the lives and rights of the people there—complaints

² *Political Transactions*, pp. 33-4.

which were to multiply and grow angrier as time went on. To them these complaints seemed indisputably just; but in the East they were generally looked upon as no more than unreasonable grumblings of fractious frontiersmen. We now know both sides were wrong. Eastern people failed to appreciate either the sufferings or the rights of their western brethren; but the westerners failed to allow for the almost insurmountable difficulties confronting the Federal administration. Their being shut off by Spain from the use of the lower Mississippi, and their continued subjection to destructive raids by Indians from the Federal territory, made for many years the main subjects agitating the Kentucky people. They had expected, or at least hoped, that the new Federal Government would promptly demand and secure the northern lake posts—especially Detroit, where, with ill-concealed secrecy, the British still instigated and supplied the savages for their raids. But no relief came.

Soon many of the Kentuckians became convinced that the new general government was little more interested than the old one in their protection from the savages.

It will be recalled that in 1786, when General Clark brought the warring Indians on the Wabash to sue for peace after the disgraceful mutiny of a large part of his army, he arranged for a treaty meeting with them the following April under the auspices of the Continental Congress; but the time for the meeting came and went and Congress did nothing about it. The savages became convinced they had been deceived, and renewed their bloody warfare.

At length, early in 1789, a number of Indians from various tribes were gathered at Fort Harmar at the mouth of the Muskingum to meet the governor of the Northwest Territory, General St. Clair. He made a treaty with chiefs of the Delawares, Wyandots, Chippewas and other nations; but, excepting the Delawares and Wyandots, they afterward denied the authority of their professed representatives to make any such treaties and claimed that St. Clair had been previously warned that none would be ratified. Certain it is that the protesting savages paid no attention to the treaty terms, and that their attacks on Kentucky continued as before.

“The Federal officials under whose authority these treaties were made had no idea of the complexity of the prob-

lem. In 1789 the Secretary of War, the New Englander Knox, solemnly reported to the President that, if the treaties were only observed and the Indians conciliated, they would become attached to the United States, and the expense of managing them, for the next half-century, would be only some fifteen thousand dollars a year. He probably represented, not unfairly, the ordinary eastern view of the matter."³

General Knox explained his attitude in a report to the President, saying:

"By information from Brigadier-general Harmar, the commanding officer of the troops on the frontiers, it appears that several murders have been lately committed on the inhabitants by small parties of Indians, probably from the Wabash country. . . . It is to be observed that the United States have not formed any treaties with the Wabash Indians; on the contrary, since the conclusion of the war with Great Britain, hostilities have almost constantly existed between the people of Kentucky and the said Indians. The injuries and murders have been so reciprocal that it would be a point of critical investigation to know on which side they have been the greatest.⁴ Some of the inhabitants of Kentucky during the past year, roused by recent injuries, made an incursion into the Wabash country; and, possessing an equal aversion to all bearing the name of Indians, they destroyed a number of peaceable Piankeshaws who prided themselves in their attachment to the United States. Things being thus circumstanced, it is greatly to be apprehended that hostilities may be so far extended as to involve the Indian tribes with whom the United States have recently made treaties. . . .

"An inquiry would arise, whether, under the existing circumstances of affairs, the United States have a clear right, consistently with the principles of justice and the laws of nature, to proceed to the destruction or expulsion of the savages on the Wabash, supposing the force for that object easily attainable. . . . But if it should be decided, on an abstract view of the question, to be just to remove by force

³ *Winning of the West*, pp. 131-2, citing *American State Papers*, Volume IV, Indian Affairs I:13.

⁴ This statement shows how ignorant General Knox was about the western hostilities, for the letters of

the time (including the correspondence of General St. Clair, General Harmar, and other federal officers), show comparatively few aggressions by the whites, but endless ones by the Indians.

the Wabash Indians from the territory they occupy, the finances of the United States would not at present admit of the operation.

"By the best and latest information, it appears that on the Wabash and its communications, there are from fifteen hundred to two thousand warriors. An expedition against them, with a view of extirpating them, or destroying their towns, could not be undertaken, with a probability of success, with less than an army of two thousand five hundred men. The regular troops of the United States on the frontiers are less than six hundred: of that number not more than four hundred could be collected from the posts for the purpose of the expedition. To raise, pay, feed, arm, and equip one thousand nine hundred additional men, with the necessary officers, for six months, and to provide every thing in the hospital and quartermaster's line, would require the sum of two hundred thousand dollars, a sum far exceeding the ability of the United States to advance, consistently with a due regard to other indispensable objects."⁵

Governor St. Clair also wrote to the governor of Virginia a letter which called forth the following positive order to the Kentucky lieutenants:

"Richmond, March 10th, 1790.

"Sir:

"The governor of the continental western territory has given the executive information of incursions having been made by parties from this state upon the tribes of Indians in amity with the United States.

"As conduct like this is highly dishonorable to our national character, and will inevitably draw upon individual delinquents the punishment due to such offences, it becomes our duty to enjoin you to exert your authority to prevent any attempts of this kind in future. Should it be necessary, on any occasion, to order out parties to repel an attack of an enemy within the limits of the state, you will issue the most positive orders that no such party shall, under any pretence whatever enter either into the territory of the United States, or of any Indian tribe.

I am, sir,

Your most obt. servt.

Beverly Randolph."⁶

⁵ Dillon's *History of Indiana*, pp. 217-220.

⁶ *Political Transactions*, p. 114.

Littell says of this order:

"The absurdity and cruelty of this mandate would need no comment, even if the premises on which it was predicated had been true. But . . . there is no reason to believe that the incursions mentioned by the territorial governor, had ever been made, and much reason to believe that they never were. The *Kentucky Gazette* was published weekly during all those years, and as intelligence respecting either the invasion or pursuit of Indians was to the citizens of all [things] the most interesting, it is believed it was never neglected. But the files of that paper have been examined, and no notice is taken of any expedition at, or any way near, the times alluded to by the governor."⁷

Whether any such punitive incursions by the Kentuckians were made or not, it is certain that they were being subjected to almost constant attacks by the savages. These soon became so alarming that, under instructions from General Knox, General St. Clair ordered Major Hamtramck at Vincennes to send an agent to meet the Miamis, Delawares and Shawnees, and learn whether peace could be made with them; but the chiefs gave him only evasive answers, and said they would give a definite reply in thirty days. Within three days after the agent left their camp, they burned there an American captive at the stake. Three days later news arrived that the northern Indians had joined those on the Wabash in a general war against the Americans.⁸

May 30th, 1790, Governor St. Clair arrived in Louisville, en route to meet General Harmar and plan a general expedition against them.⁹ Harmar was placed at the head of the Federal troops, amounting to 320 men, and authorized to call for the militia of Virginia and Pennsylvania. Under this authority he called for 1,000 men from Virginia and 500 from Pennsylvania, on July 15th, 1790. The men from Virginia were all called from Kentucky.¹⁰

The Kentucky militiamen had a settled aversion to serving under Federal leaders; for, although far from being of the skilled

⁷ *Political Transactions*, pp. 35-6.

⁸ Perkins' *Western Annals*, p. 332.

⁹ McElroy's *Kentucky in the Nation's History*, p. 152.

¹⁰ Dillon's *History of Indiana*, p. 240-1, giving number summoned from each county.

pioneer class of former years, many of them considered their experience of Indian warfare superior to that of a commander used only to fighting with infantry in mass formation, whereas they always preferred to go as mounted riflemen and fight in loose formation. Furthermore, they disliked Harmar for the complaints he had made of them. For these reasons many skilled militiamen either evaded the service entirely, or sent substitutes.¹¹

Major Ferguson afterward testified before a board of inquiry that he had inspected the arms brought by the Kentucky militia and they were uniformly in very bad condition—some without stocks, others without locks—and had been taken to the rendezvous at Fort Washington under the impression that they would be repaired there. The Pennsylvania men were said to be even worse provided, and most of them either old men, too feeble for warfare, or boys with no knowledge of it. Their officers declared that many of them were so awkward they could not even take their gun-locks off to oil them, or put in flints so their pieces could be fired.¹²

The troops were finally assembled at Fort Washington, about September 30th, and formed into three infantry battalions from Kentucky, one from Pennsylvania, and one of Kentucky light mounted troops, together with two battalions of Federal troops, making a total of 1,453 men. At the outset there was considerable bickering between two Kentuckians, Colonel Hardin and Colonel Trotter, as to who should command; and, although Hardin was the ranking officer, most of the men sided with Trotter and declared they would go home unless he was to command. The matter was compromised by giving Trotter three battalions, but placing the whole militia under Hardin's command. Under these inauspicious circumstances the army began its march up the Wabash.¹³

An interesting sidelight on the organization of the Federal army at this time is given by Jackson Johonnet, an obscure sergeant from Boston. Parts of his narrative are chronologically wrong, but it shows that the method of recruiting-sergeants in 1790 was not unlike that of some in this twentieth century. Johonnet says that when he was in Boston, out of work,

¹¹ *Western Annals*, p. 338; *Winning of the West*, V:88.

¹² *Western Annals*, p. 338.

¹³ *Western Annals*, p. 339.

"A young officer came into my room, and soon entered into conversation on the pleasures of a military life, the great chance there was for an active young man to obtain promotion, and the grand prospect opening for making great fortunes in the western country. His discourse had the desired effect; for after treating me with a bowl or two of punch, I enlisted, with a firm promise on his side to assist me in obtaining a sergeant's warrant before the party left Boston.

"An entirely new scene now opened before me. Instead of becoming a sergeant, I was treated severely for my ignorance in a matter I had till then scarcely thought of, and insultingly ridiculed for remonstrating against the conduct of the officer. When we arrived at Fort Washington, I was ordered to join Captain Pehlon's company, and in a few days set out on the expedition under General Harmar. Those alone who have experienced, can tell what hardships men undergo in such excursions; hunger, fatigue, and toil were our constant attendants. However, as our expectations were raised with the idea of easy conquest, rich plunder, and fine arms in the end, we made a shift to be tolerably merry; for my own part, I had obtained a sergeancy, and flattered myself I was on the direct road to honour, fame, and fortune."¹⁴

On October 13th, Harmar and his army arrived within thirty or thirty-five miles of the Miami towns; and he sent Hardin ahead with six hundred militia and a company of regulars to scout and drive the enemy into their villages. When they reached the towns, however, they found them deserted. The main army came up on the 17th and destroyed what the Indians had left. Next day Colonel Trotter was sent ahead with 300 men—part mounted—to try to find the enemy. He had not gone far before an Indian was flushed and the cavalry set off in mad pursuit. They finally ran him down and killed him. Soon another Indian galloped across their field in full view, when it is said that all four of the chief field officers deserted their commands and joined in chasing him—their men being meantime left in confusion. During this time a man from the first pursuing party came running back in great terror, and reported to Captain Armstrong

¹⁴ Metcalfe's *Narratives of Western Adventure*, 87 et seq.

of the regulars that he had been pursued by fifty mounted Indians.

When Trotter and his officers rejoined the army at night, Harmar flew into a rage on learning how recklessly the reconnaissance had been conducted, and superseded Trotter. Hardin took active command, being joined by Captain Armstrong with a small party of regulars. Next day he discovered the enemy's abandoned camp. There he threw out his columns in loose order and resumed the advance. Shortly afterward Armstrong saw fires of the enemy gleaming in the distance and informed Hardin, who, it is said, scornfully replied that the Indians would not fight, and rode on in front of his troops.¹⁵ Accounts vary as to what actually happened at this point. Armstrong said the army continued a reckless advance until fired upon from behind the campfires; others that the Indians, having gone ahead of the advancing army for some miles, doubled in their tracks and lay in ambush for it.¹⁶ Judging from the conduct of the expedition up to that time, Armstrong's account seems probably correct.¹⁷ However that may be, the army was suddenly subjected to a terrific fire, and Hardin and all his militia except nine turned tail and ran for safety. Of the regulars thus abandoned, all but two officers and two or three privates fell under the withering fire. Ensign Hartshorn tripped over a log and lay hidden in the long grass behind it until nightfall, while Armstrong plunged into a nearby marsh and lay there until after dark, watching the victory dance of the Indians over the mutilated bodies of his slain, less than two hundred yards away.

The main body of the army, only a few miles from the scene of Hardin's engagement, next day began a homeward march. Hardin, burning to restore his military reputation, begged the

¹⁵ *Western Annals*, p. 341-2.

¹⁶ Butler's *Kentucky*, 193; *Western Annals*, 341; Marshall's *Kentucky*, I:363.

¹⁷ The accounts of the expedition given by Marshall and some other early Kentucky writers usually give little or no references to contemporary sources of information and are evidently partisan and unreliable. The account in the text is therefore based upon the statements

of participants made at the time of the events narrated or shortly afterward, and quoted with references in Perkins' *Western Annals*, 339-344, and Dillon's *History of Indiana*, 242-254.

Colonel Hardin estimated the number of Indians engaged as 150, Armstrong 100; but Butler's *Kentucky* swelled it to 700—a number which some later writers have repeated.

loan of a detachment to return and strike the enemy. With 340 militia and sixty regulars, he set out for this rear-guard action. Captain Asheton describes what followed thus:

“The detachment marched in three columns, the federal troops in the centre, at the head of which I was posted, with Major Wyllys and Colonel Hardin in my front; the militia formed the columns to the right and left. From delays, occasioned by the militia’s halting, we did not reach the banks of the Omeé [Maumee] till some time after sun-rise. The spies then discovered the enemy, and reported to Major Wyllys, who halted the federal troops, and moved the militia on some distance in front, where he gave his orders and plan of attack to the several commanding officers of corps. Those orders were not communicated to me. Major Wyllys reserved the command of the federal troops to himself. Major Hall, with his battalion, was directed to take a circuitous route round the bend of the Omeé River, cross the Pickaway Fork, (or St. Mary’s) which brought him directly in the rear of the enemy, and there wait until the attack should commence with Major M’Mullen’s battalion, Major Fontaine’s cavalry, and Major Wyllys with the federal troops, who all crossed the Omeé at, and near, the common fording place. After the attack commenced, the troops were by no means to separate, but were to embody, or the battalions to support each other, as circumstances required. From this disposition it appeared evident, that it was the intention of Major Wyllys to surround the enemy, and that if Colonel Hall, who had gained his ground undiscovered, had not wantonly disobeyed his orders, by firing on a single Indian, the surprise must have been complete. The Indians then fled with precipitation, the battalions of militia pursuing in different directions. Major Fontaine made a charge upon a small party of savages—he fell the first fire, and his troops dispersed. The federal troops, who were then left unsupported became an easy sacrifice to much the largest party of Indians that had been seen that day. It is my opinion that the misfortunes of that day were owing to the separation of troops, and disobedience of orders. After the federal troops were defeated, and the firing in all quarters nearly ceased, Colonel Hall and Major McMullen, with their battalions, met in the town, and after discharging, cleaning, and fresh loading their arms, which took up about half an hour, proceeded to join the army unmolested. I am convinced that the detachment, if it had been kept embodied, was sufficient to have answered the fullest expectations of the General, and needed no support;

but I was informed a battalion under Major Ray was ordered out for that purpose."¹⁸

After the army reached Fort Washington both Harmar and Hardin were court-martialed, but both were acquitted. Shortly afterward Harmar resigned his command.

¹⁸ Perkins' *Western Annals*, p. 342-3.

CHAPTER XXX

KENTUCKY BECOMES A STATE

Returning from military to political affairs: Under the third Assembly act the seventh Kentucky convention met on July 20, 1789, to consider again the question of separation from Virginia; and it promptly passed the following resolutions:

“Whereas it is the opinion of this convention, that the terms now offered by Virginia for the separation of the district of Kentucky from said state, are materially altered from those formerly offered and agreed to on both sides; and that the said alteration of the terms is injurious to, and inadmissible by the people of this district:

“*Resolved therefore*, That a memorial be presented to the ensuing general assembly of the state of Virginia, requiring such alterations in the terms at present proposed to this district for a separation, as will make them equal to those formerly offered by Virginia, and agreed to on the part of the said district of Kentucky.”¹

The memorial was accordingly drawn up and forwarded to the Assembly, which during its next session (October, 1789) passed a *fourth* act repealing the obnoxious clauses in the preceding one, but making still another condition hardly less unjust. This required the Kentuckians alone to bear the expense of the two expeditions of Clark and Logan in 1786. It brings into strong light the Assembly's inclination to ignore the fact that the war with the Indians, in which those expeditions were carried on, was *the state's war*, the burden of which the whole state should have borne, and not the Kentucky people alone. They had served in it, furnished the supplies for it, and had never been paid for either service or supplies, although the state had expressly recognized its obligation to pay for both.

The fourth act also authorized the people again to elect repre-

¹ Marshall's *Kentucky*, I:350.

sentatives to meet at Danville on the 26th of July ensuing, to determine, a *fifth* time, the inclination of the people to separate from Virginia. Accordingly another convention was held which assented to this final act of separation, forwarded an address to Congress asking Kentucky's admission into the Union, and called still another (ninth) convention for April, 1792, to adopt a state constitution.²

Finally, on February 4th, 1791, the Federal Congress passed an act providing for Kentucky's admission on June 1, 1792; and, at last, the problem of her statehood was settled.

When one reflects upon the experiences of the Kentucky people during their long struggle for self-government (their great need for an independent government, their dire distress from Indian warfare, their poverty, their exclusion from markets for their products by the closing of the Mississippi, the neglect and apparent indifference of both their state and national governments about relieving their sufferings and asserting their rights, and finally, when one remembers that during all those years they were being tempted to escape from their troubles by allying themselves with Spain or Great Britain) their submission to their ills and repeated appeals to their state and Congress display an adherence to law and a patriotism hardly paralleled in the history of any other community in the United States. Yet it has been the irony of Kentucky's fate that nearly all of her leading men during this period were falsely represented by the writer of the first generally read history of the state as traitors with Wilkinson in a conspiracy to detach Kentucky from the Union and ally it with Spain—a charge which careless copyists have recklessly accepted and repeated to this day.

While these political events were occurring, Indian hostilities not only continued, but grew so much worse that the National Government reluctantly determined to suppress them with a large force of Federal troops and western militia; and most unfortunately, General St. Clair, the governor of the Northwest Territory, was put in command. Although the need was plain for prompt action to prevent the union of all the hostile tribes before

² The late Mr. Helm Bruce read before the Conversation Club of Louisville, April 21, 1921, a paper: "How Kentucky became a State,"

which lucidly explains the history of the various conventions. (*Author's MSS.*)

he would be ready to move, the means of the Government were limited and the preparations for the campaign slow and bungling.

The Kentucky people, who had to bear the brunt of western savage war and would be called on to furnish most of the militia, had little confidence in the leadership of St. Clair, whose military career had been one of failures; and furthermore they resented the charge they learned he had made against them of provoking Indian hostilities. They had been disgusted with the results of the campaign under Harmar, whom they were much inclined to saddle with blame for defeat; and soon there was a general demand for an independent expedition under Kentucky leaders to be conducted after their own fashion. To this demand the Federal authorities acceded, and on March 9th, 1791, the President appointed Charles Scott, John Brown, Harry Innes, Benjamin Logan and Isaac Shelby a board of war for the district with authority to enlist troops for a campaign against the Indians.

About this time Congress directed Col. Thomas Proctor to meet the Indians on the Wabash and make them overtures of peace; but he was coldly received. The Indians were informed of the grant of authority to the Kentucky Board of War to carry on an expedition against them, and this fact was effectively used by the British agents to convince the savages that the Americans were insincere in their dealings and were planning to attack them; so Proctor accomplished nothing.³

The Kentucky Board of War (April 8th) empowered General Scott to raise 326 militia privates for a period of not over sixty days and also call for volunteers, to strike the hostile Indians on the Wabash.⁴ After a delay of some days to learn the result of Proctor's negotiations, the army marched on May 23rd, with Scott commanding and General Wilkinson second in command. Colonel Hardin, who doubtless smarted under the stigma put upon him for his defeat the year before and desired to retrieve his fame, joined the expedition as a volunteer without commission, but was given command of the guides and advance party.⁵ The whole force is said to have been about eight hundred men.⁶ Scott's official report of the expedition says:

³ *Western Annals*, 347-50.

⁴ *Political Transactions*, 117.

⁵ *Western Annals*, 350.

⁶ Butler's *Kentucky*, 196.

"In the prosecution of the enterprise, I marched four miles from the banks of the Ohio, on the 23d of May; and on the 24th I resumed my march, and pushed forward with the utmost industry, directing my route to Ouiatenon, in the best manner my guides and information enabled me; though I found myself greatly deficient in both. By the 31st, I had marched one hundred and thirty-five miles, over a country cut by four large branches of White river, and many smaller streams, with steep, muddy banks; during this march, I traversed a country alternately interspersed with the most luxuriant soil, and deep, clayey bogs, from one to five miles in width, rendered almost impervious by brush and briars. Rain fell in torrents every day, with frequent blasts of wind and thunderstorms. These obstacles impeded my progress, wore down my horses, and destroyed my provisions.

"On the morning of the 1st instant, as the army entered an extensive prairie, I perceived an Indian on horseback, a few miles to the right. I immediately made a detachment to intercept him; but he escaped. Finding myself discovered, I determined to advance with all the rapidity my circumstances would permit, rather with the hope than the expectation of reaching the object sought that day; for my guides were strangers to the country which I occupied. At one o'clock [June 1st] having marched, by computation, one hundred and fifty-five miles from the Ohio, as I penetrated a grove which bordered on an extensive prairie, I discovered two small villages to my left, at two and four miles distance.

"My guides now recognized the ground, and informed me that the main town was four or five miles in my front, behind a point of woods which jutted into the prairie. I immediately detached Colonel John Hardin, with sixty mounted infantry, and a troop of light-horse under Captain McCoy, to attack the villages to the left, and moved on briskly with my main body in order of battle, toward the town, the smoke of which was discernable. My guides were deceived with respect to the situation of the town; for, instead of standing at the edge of the plain through which I marched, I found it on the low ground bordering on the Wabash; on turning the point of woods, one house presented in my front. Captain Price was ordered to assault that with forty men. He executed the command with great gallantry, and killed two warriors.

"When I gained the summit of the eminence which overlooks the villages on the banks of the Wabash, I discovered the enemy in great confusion, endeavoring to make their escape over the river in canoes. I instantly ordered Lieu-

tenant-colonel commandant Wilkinson to rush forward with the first battalion. The order was executed with promptitude, and this detachment gained the bank of the river just as the rear of the enemy had embarked; and, regardless of a brisk fire kept up from a Kickapoo town on the opposite bank, they, in a few minutes, by a well-directed fire from their rifles, destroyed all the savages with which five canoes were crowded. To my great mortification, the Wabash was many feet beyond fording at this place: I therefore detached Colonel Wilkinson to a ford two miles above, which my guides informed me was more practicable.

"The enemy still kept possession of the Kickapoo town. I determined to dislodge them; and for that purpose ordered Captain King's and Logsdon's companies to march down the river below the town, and cross, under the conduct of Major Barbee. Several of the men swam the river, and others passed in a small canoe. This movement was unobserved; and my men had taken post on the bank before they were discovered by the enemy, who immediately abandoned the village. About this time, word was brought me that Colonel Hardin was encumbered with prisoners, and had discovered a stronger village further to my left than those I had observed, which he was proceeding to attack. I immediately detached Captain Brown with his company to support the colonel, but the distance being six miles, before the captain arrived the business was done; and Colonel Hardin joined me a little before sunset, having killed six warriors, and taken fifty-two prisoners. Captain Bull, the warrior who discovered me in the morning, had gained the main town, and given the alarm, a short time before me; but the villages to my left were uninformed of my approach, and had no retreat.

"The next morning I determined to detach my lieutenant-colonel commandant, with five hundred men, to destroy the important town of Keth-tip-e-ca-nunk, eighteen miles from my camp, and on the west side of the Wabash; but, on examination, I discovered my men and horses to be so crippled and worn down by a long laborious march, and the active exertions of the preceding day, that three hundred and sixty men only could be found in a capacity to undertake the enterprise, and they prepared to march on foot. Colonel Wilkinson marched with this detachment at half after five in the evening, and returned to my camp the next day at one o'clock, having marched thirty-six miles in twelve hours, and destroyed the most important settlement of the enemy in that quarter of the federal territory."⁷

⁷ Dillon's *Indiana*, p. 262-4.

Wilkinson reported his attack to General Scott as follows:

“Camp Ouiatanan June 3rd 1791
One O’Clock P. M.

“Sir—

“The Detachment under my Command destined against the Village Kethipeconunk got in motion at half after five O’Clock last evening. Knowing that we had to attack an enemy whose chief dependance is in his dexterity as a marksman and his alertness in covering himself behind trees, stumps and other impediments to fair fight, would not hazard an Action in the night, I determined to push my march untill I approached the vicinity of the Village, where I knew the country to be champaign. I gained my point forty minutes after Ten O’Clock. I lay upon my Arms untill four O’Clock and half an hour after Assaulted the Town at all quarters. The Enemy was vigilant, fled on my Approach, and in Canoes crossed Eel Creek; which reached the N E quarter of the Village, that Creek was not fordable— My Corpse dashed forward with the Intrepidity becoming Volunteers and were saluted by the Enemy with a brisk fire from the Oposite side of the Creek, they Rushed on to the Waters edge and finding it impassible: Returned a Volly, which so galled and disconcerted their Antagonists, that they threw away their fire without effect— in five minutes the savages were driven from their covert and fled on all quarters—

“I have three men slightly wounded— At half after five O’Clock the Town was in flames, and I commenced my retreat at six— I want language to do Justice to the Courage and good Conduct of the Gentlemen who Composed my party, in neither could they be exceeded by Veteran Troops— I have the honour to be Sir

Your most Obedt Servant

James Wilkinson.”⁸

Gen^l Cha^s Scott

General Scott reported as the results of his expedition the killing of thirty-two Indians, the capture of fifty-eight prisoners, and the destruction of a number of towns and considerable stores.⁹ The Kentuckians were quite elated over the success of the expedition, and readily responded to General St. Clair’s call upon them to carry on another. Under authority from the President, he wrote the Kentucky Board of War (June 25, 1792), saying:

⁸ Kentucky State Historical Society Collection photostat; also published in *Register Kentucky State*

Historical Society, Vol. 24, No. 72, p. 266.

⁹ Dillon’s *Indiana*, p. 265.

"Judging that a second expedition of a like nature with the former would be highly conducive to the public interest, I . . . hereby direct that another expedition be set on foot in the district of Kentucky, and carried into execution upon the same principles and stipulations, and under the same regulations and restrictions as that lately commanded by Brigadier General Scott, excepting only that the number of men to be employed on the said expedition do not exceed the number of five hundred, officers included; that they rendezvous at Fort Washington on the 15th day of next month or as soon afterwards and not exceeding the 20th, as possible, and that their operations be directed against the town of Kekiah [Ke-ne-pa-com-a-quā] on the Ouahashe and any other towns of the hostile Indians to which their force may be adequate."¹⁰

Wilkinson, who commanded the expedition, left Fort Washington (Cincinnati) on August 1st, and after a feint against the Miamis, marched against the Ouiatenon villages on the upper Wabash and its tributary, Eel River. In his official report of his expedition to General Scott (August 24) he said:

"My reconnoitering party announced Eel river in front, and the town on the opposite bank. I dismounted, ran forward, and examined the situation. . . . I immediately determined to post two companies on the bank of the river, opposite to the town, and above the ground I then occupied, to make a detour with Major Caldwell and the second battalion, until I fell into the Miami trace, and by that route to cross the river above, and gain the rear of the town. . . . In the moment I was about to put this arrangement into execution, word was brought me that the enemy had taken the alarm, and were flying. I instantly ordered a general charge, which was obeyed with alacrity. The men, forcing their way over every obstacle, plunged through the river with vast intrepidity. The enemy was unable to make the smallest resistance. Six warriors, and (in the hurry and confusion of the charge) two squaws and a child, were killed; thirty-four prisoners were taken, and an unfortunate captive released, with the loss of two men killed and one wounded.

"I found this town scattered along Eel river for full three miles, on an uneven, scrubby oak barren, intersected alternately by bogs almost impassable, and impervious thickets of plum, hazel, and black jacks. . . . I encamped in the

¹⁰ See copy, *Littell's Political Transactions*, p. 118.

town that night, and the next morning I cut up the corn, scarcely in the milk, burnt the cabins, mounted my young warriors, squaws and children in the best manner in my power, and leaving two infirm squaws and a child, with a short talk, I commenced my march for the Kickapoo town in the prairie . . . I reached Tippecanoe at twelve o'clock, which had been occupied by the enemy, who watched my motions and abandoned the place that morning. . . .

"I determined to halt till the next morning, and then to resume my march to the Kickapoo town, on the prairie, by the road which leads from Ouiatenon to that place. In the course of the day, I had discovered some murmurings and discontent among the men, which I found, on inquiry, to proceed from their reluctance to advance farther into the enemy's country. This induced me to call for a state of the horses and provisions; when, to my great mortification, two hundred and seventy horses were returned lame and tired, with barely five days' provisions for the men. Under these circumstances, I was compelled to abandon my designs upon the Kickapoos of the prairies, and, with a degree of anguish not to be comprehended but by those who have experienced similar disappointments, I marched forward to a town of the same nation, situate about three leagues west of Ouiatenon; as I advanced to that town, the enemy made some show of fighting me, but vanished at my approach. I destroyed this town, consisting of thirty houses, with a considerable quantity of corn in the milk, and the same day I moved on to Ouiatenon, where I forded the Wabash, and proceeded to the site of the villages on the margin of the prairie, where I encamped at seven o'clock. At this town, and the villages destroyed by General Scott, in June, we found the corn had been replanted, and was now in high cultivation, several fields being well plowed; all of which was destroyed. On the 12th I resumed my march, and, falling into General Scott's return trace, I arrived, without any material incident, at the Rapids of the Ohio, on the 21st. inst. [August], after a march, by accurate computation, of four hundred and fifty-one miles from Fort Washington. . . .

"The services which I have been able to render, fall short of my wishes, my intentions, and my expectations. But, sir, when you reflect on the causes which checked my career and blasted my designs, I flatter myself you will believe every thing has been done which could be done in my circumstances. I have destroyed the chief town of the Ouiatenon nation, and made prisoners of the sons and sisters of the king; I have

burned a respectable Kickapoo village, and cut down at least four hundred and thirty acres of corn, chiefly in the milk. The Ouiatenons, left without houses, home, or provisions, must cease to war, and will find active employ to subsist their squaws and children during the impending winter."¹¹

We may be sure Wilkinson did not minimize his difficulties or achievement; but the success of his expedition was pleasing both to the Kentucky people, whose men had carried it out, and to the Federal authorities, and the accuracy of his report seems to have passed unquestioned.

¹¹ Dillon's *Indiana*, p. 267-271; *St. Clair Papers*, II:235-239.

CHAPTER XXXI

ST. CLAIR'S DEFEAT

The success of Scott and Wilkinson with the Kentucky volunteers, following upon the defeat of the federal general Harmar, confirmed the belief of the Kentucky people in their own method of warfare and increased their distrust of the leadership of federal generals unversed in wilderness war. They learned, however, that the United States Government was resolved to prosecute its original plan for an expedition under General St. Clair with a force of some twenty-five hundred Federal troops, reinforced by Kentucky militia.

St. Clair was beset by almost insurmountable difficulties in gathering his army, and even more in securing supplies for it. In the West there were only some 264 Federal troops reported fit for duty, but by midsummer 299 more arrived at the rendezvous at Fort Washington.¹ Gen. Richard Butler, the second in command, Major Darke, and other officers worked hard to secure additional levies; but as the pay for privates was only \$3 a month and they had to arm and clothe themselves, they were generally of the poorest quality, although the officers seem to have been of a much higher type. Furthermore, most of the levies were enlisted for only six months, and the terms of many of them were to expire before they ever came into contact with the enemy.

The history of the expedition appears quite fully in several contemporary accounts. Amongst these are General St. Clair's reports to the secretary of war, and his journal; another, the most complete and perhaps reliable, is the journal of his aide-de-camp, Major Denny, an intelligent officer who had considerable experience in western warfare. He had come west in 1785 as an ensign with the Continental troops attending the American commissioners to treat with the Indians, and his journal bears

¹ *Western Annals*, 358; Dillon's *Indiana*, 275.

every evidence of fairness. It says of the new Federal recruits: "The bulk of the army was composed [of] men collected from the streets and prisons of the cities, hurried out into the enemy's country, and with the officers commanding them totally unacquainted with the business in which they were engaged; it was utterly impossible they could be otherwise."² Worst of all, the quartermaster department was wretchedly conducted, essential supplies being grossly deficient, both in quantity and quality. Tents, packsaddles, kettles, knapsacks, and cartridge boxes were both insufficient and defective. The powder was poor and wet, arms out of repair, and there were few or no tools to repair them.³

It was to join such a Federal army, under a commander in whom they had no confidence and whom they cordially disliked, that Kentucky volunteers were called; but none would enlist. Thereupon a draft of 1,150 men was ordered, of whom it is said only 415 appeared, and they quite as unfit and ill-armed as the Federal levies, and no doubt even more discontented. No general officer was found willing to command them, but at length Colonel Oldham was appointed to do so.⁴

On September 1st, at Fort Washington, Denny's journal says:

"General St. Clair exceedingly impatient at the delay or detention of some of the troops. . . .

"General Harmar seems determined to quit the service; has positively refused going on the campaign. . . . He conversed frequently and freely with a few of his friends on the probable results of the campaign; predicted a defeat. . . . It was a matter of astonishment to him that the commanding general, who was acknowledged to be perfectly competent, should think of hazarding, with such people, and under such circumstances, his reputation and life, and the lives of so many others, knowing, too, as both did, the enemy with whom he was going to contend; an enemy brought up from infancy to war, and perhaps superior to an equal number of the best men that could be taken against them."⁵

The troops slowly collected at Fort Washington, and in September marched north about thirty miles to a point on the Miami

² *St. Clair Papers*, II:262.

³ *Western Annals*, p. 358.

⁴ *Western Annals*, 359; Dillon's

Indiana, p. 276; Marshall's *Kentucky*, I:378.

⁵ *St. Clair Papers*, II:252, 262.

River, where fifteen days were consumed erecting a fort called Fort Hamilton, the first of a proposed chain of fortresses. St. Clair, who was growing old and infirm, was so ill and wracked by gout that he could neither mount a horse nor dismount without assistance, and could hardly keep up with the army.⁶

From Fort Hamilton the march continued almost due north for some forty-four miles, and the troops, then numbering about 1,700, erected another fort, called Fort Jefferson, a few miles east of the present eastern boundary of Indiana. The marching had been extremely slow, for there was much rain and evidently much confusion as to the geography of the country traversed.

Meantime discontent was rife and desertion frequent from the beginning of the march. Federal levies complained that their terms of enlistment had expired and that they could not be lawfully required to march farther; and both they and the drafted Kentuckians complained of the lack of everything needed. On October 2nd Major Denny, who had returned to Fort Washington with General St. Clair, says in his journal:

"Three hundred militia had just reached that place from Kentucky.

"3d—A number of militia are reported to have deserted already.

"4th. A sergeant and nine of the militia deserted last night.

"5th. An officer from the army arrives in pursuit of deserters. A sergeant and twenty-five deserted on the night of the 3d. . . .

"The new fort goes on but slowly. Weather very bad; constant rain night and day. A rifleman of the militia, a few miles from camp, with leave to hunt, fired upon by a single Indian and wounded through the hip, but made his escape into camp. Men desert; four of the First regiment went off since our arrival here.

"18th. A continuation of wet, disagreeable weather. The army would have been without bread after to-day had not a small supply of forty-eight horse-loads arrived.

"19th. All the horses of the army, quartermasters' as well as contractors', sent back for a supply of flour. Unpardonable mismanagement in the provision department. Troops put on half allowance of flour. Colonel Oldham, com-

⁶ *Western Annals*, 361; *St. Clair Papers*, II:257, 265.

manding officer of militia, directed to furnish an escort to go back with the horses. His men declare if they are sent on that duty they will not return. Falconer's company of levies escort the horses back.

"20th. The time for which the levies were enlisted begins to expire. Ten were discharged this morning; several a few days ago. The levies from Virginia claim their discharge. All of Captain Hanah's company from Alexandria discharged. . . .

"22d. For want of sufficiency of flour, the General has been under the necessity of keeping the troops upon half a pound of that article daily, but the ration is made up of beef. This, however, would not satisfy militia; twenty of them deserted last night, and some more this morning. . . .

"23d. Two artillerymen attempted to desert to the enemy, were taken, tried, and sentenced to suffer death; were hanged, along with one of the levies, for shooting his comrade. . . .

"26th. . . . The Commander-in-Chief very ill.

"27th. The army wait for a supply of flour to enable them to proceed. The last pound served out this day, and should none arrive, on to-morrow the men will be without bread. Much dissatisfaction among the militia and levies; the latter claim their discharge; say they have served longer than the term for which they have enlisted. The enlistments are indeed somewhat extraordinary; they specify six months after assembling at the rendezvous on the frontier, but there has been no uniformity observed; some corps have inserted Winchester, some Fort Pitt, and others Fort Washington, but the bulk of the men say and declare that they engaged to serve but for six months from the date of their enlistment. . . . The season so far advanced it will be impracticable to continue the campaign. Forage entirely destroyed; horses failing and can not be kept up; provisions from hand to mouth. . . .

"28th. Seventy-four horses loaded with flour arrive; about twelve thousand pounds. This supply will afford four days' allowance to the army. . . . Two privates of Major Butler's battalion were fired upon about three miles from camp, one of them killed, the other wounded but made his escape to camp. Two of the militia some miles out, were pursued by four Indians; one only got in, it is supposed the other is a prisoner, as the savages endeavored to catch him when they might have shot with certainty. In the general orders of this day, the troops directed to be under arms at the first tap of the drum, which is to be given at daylight, and to continue paraded until dismissed. . . .

"The First and Second regiment of regulars compose about one-third of the army, and although chiefly recruits, are tolerably well disciplined, but the remainder (excepting the few militia), being levies and raised but for six months, and their times expiring daily, they take great liberties. This morning there was a constant firing kept up round the camp, notwithstanding it is known there is a general order against it; in fact, at present they are more troublesome and far inferior to the militia. . . .

"31st. . . . About 12 o'clock at night, for the first time, at the request of the General, I visited all the guards. Army continued encamped, waiting for several brigades of pack-horses loaded with flour, which had reached Fort Jefferson last night. The troops are supplied for to-day and to-morrow, and the contractor has enough for one other day; but should we move, the supply behind would be too late or lost; besides it was found yesterday that the horses with the army were not sufficient to carry the baggage, part of which had to be left on the road. The tents and other baggage sent back for and brought up. Militia show great impatience; their officers appear to have little influence. One-third turn out with a determination to go back, a few are prevailed on to stay; between sixty and seventy, however, march off in despite of every thing, and swear they will stop the pack horses with provisions. The First regiment was dispatched after them, not with an expectation of bringing them back, but with that idea and to prevent future desertions, and principally to protect the convoys. This evening two hundred and twelve horses, loaded with flour, arrived; one hundred and fifty pounds the average weight."

During the next two days the army marched slowly, "the country very flat and marshy." The quotations from Denny's journal show fairly well the nature of the country traversed, the delays and difficulties encountered, the composition and conduct of the army, and the gross failure of the supply service. The expedition now was reaching its culmination on November 4th, and Denny's account of what occurred on the 3rd and early on the 4th describes clearly the field of operations and the placing of the troops, and also explains much that was afterward the subject of heated controversy. He says:

"3rd. Marched at nine o'clock. The first four miles very flat and wet. About twelve passed over dry ground,

⁷ *St. Clair Papers*, II:252-8.

and descended gradually for three miles to a small creek supposed to be a branch of the waters emptying into Lake Erie; proceeded two miles further, and encamped on pleasant, dry ground, on bank of a creek about twenty yards wide, said to be the Pickaway fork of the Omee.⁸ Distance this day about nine miles; general course north-west thirty degrees. Fresh signs of the savages appeared today in several places; parties of riflemen detached after them, but without success.

"It was later than usual when the army reached the ground this evening, and the men much fatigued prevented the General from having some works of defense immediately erected. Major Ferguson, commanding officer of artillery, sent for, and a plan agreed on, intended to be commenced early on to-morrow. The high, dry ground barely sufficient to encamp the army; lines rather contracted. Parallel with the front line runs the creek, about twenty yards wide. On both flanks low, wet ground, and along most part of the rear. Militia advanced across the creek about three hundred yards. Had accompanied the quartermaster in the afternoon on to this ground; it was farther than could have been wished, but no place short of it appeared so suitable. I was much pleased with it; returned and made report; found the army halted and about to encamp on flat land, and with no good water; although it was late, the march was continued till just dark, when we reached the creek.

"4th. Camp on a creek twenty yards wide, supposed to be the Pickaway fork of the Omee, ninety-eight miles from Fort Washington. The frequent firing of the sentinels through the night had disturbed the camp, and excited some concern among the officers. The guards had reported the Indians to lie skulking about in considerable numbers. About ten o'clock at night General Butler, who commanded the right wing, was desired to send out an intelligent officer and party to make discoveries. Captain Slough, with two subalterns and thirty men, I saw parade at General Butler's tent for this purpose, and heard the General give Captain Slough very particular verbal orders how to proceed. Myself and two or three officers staid with the General until late, when I returned to the Commander-in-Chief, whose tent was at some distance on the left, and who was unable to be up.

"The troops paraded this morning at the usual time, and had been dismissed from the lines but a few minutes, and the sun not yet up, when the woods in front rung with the

⁸ In reality a branch of the Wash.

yells and fire of the savages. The poor militia, who were but three hundred yards in front, had scarcely time to return a shot—they fled into our camp. The troops were under arms in an instant, and a smart fire from the front line met the enemy. It was but a few minutes, however, until the men were engaged in every quarter. The enemy from the front filed off to the right and left, and completely surrounded the camp, killed and cut off nearly all the guards, and approached close to the lines. They advanced from one tree, log, or stump to another, under cover of the smoke of our fire. The artillery and musketry made a tremendous noise, but did little execution. The Indians seemed to brave every thing, and, when fairly fixed around us, they made no noise other than their fire, which they kept up very constant, and which seldom failed to tell, although scarcely heard.

“Our left-flank, probably from the nature of the ground, gave way first; the enemy got possession of that part of the encampment, but, it being pretty clear ground, they were too much exposed, and were soon repulsed. Was at this time with the General engaged toward the right; he was on foot, and led the party himself that drove the enemy and regained our ground on the left. The battalions in the rear charged several times and forced the savages from their shelter, but they always turned with the battalions and fired upon them back; indeed, they seemed not to fear anything we could do. They could skip out of reach of the bayonet, and return as they pleased. They were visible only when raised by a charge. The ground was literally covered with the dead. The wounded were taken to the center, where it was thought most safe, and where a great many who had quit their posts unhurt had crowded together.

“The General, with other officers, endeavored to rally these men, and twice they were taken out to the lines. It appeared as if the officers had been singled out; a very great proportion fell, or were wounded, and obliged to retire from the lines early in the action. General Butler was among the latter, as well as several other of the most experienced officers. The men, being thus left with few officers, became fearful, despaired of success, gave up the fight, and, to save themselves for the moment, abandoned entirely their duty and ground, and crowded in toward the center of the field, and no exertions could put them in any order even for defense; perfectly ungovernable. The enemy at length got possession of the artillery, though not until the officers were all killed but one, and he badly wounded, and the men almost all cut off, and not until the pieces were spiked. As our lines were deserted the Indians contracted theirs until their shot cen-

tered from all points, and now, meeting with little opposition, took more deliberate aim and did great execution. Exposed to a cross fire, men and officers were seen falling in every direction; the distress, too, of the wounded made the scene such as can scarcely be conceived; a few minutes longer, and a retreat would have been impracticable. The only hope left was, that perhaps the savages would be so taken up with the camp as not to follow. Delay was death; no preparation could be made; numbers of brave men must be left a sacrifice—there was no alternative.

“It was past nine o’clock, when repeated orders were given to charge toward the road. The action had continued between two and three hours. Both officers and men seemed confounded, incapable of doing any thing; they could not move until it was told that a retreat was intended. A few officers put themselves in front, the men followed, the enemy gave way, and perhaps not being aware of the design, we were for a few minutes left undisturbed. The stoutest and most active now took the lead, and those who were foremost in breaking the enemy’s line were soon left behind. At the moment of the retreat, one of the few horses saved had been procured for the General; he was on foot until then; I kept by him, and he delayed to see the rear. The enemy soon discovered the movement and pursued, though not more than four or five miles; and but few so far; they turned to share the spoil.”⁹

Continuing, Denny’s journal gives a graphic description of the flight of the troops twenty-nine miles to Fort Jefferson, which they reached after dark. There they tarried only a short time, but left “a little after ten” and continued the retreat that night for about six hours, and resumed it next day, until they reached Fort Washington.

Five days after his defeat, General St. Clair described it in a report to the secretary of war, as follows:

“Fort Washington, 9th November, 1791.

“Sir—

“Yesterday afternoon the remains of the army under my command got back to this place, and I have now the painful task to give you an account of as warm and as unfortunate an action as almost any that has been fought, in which every corps was engaged and worsted, except the First regiment, that had been detached upon a service I had the honor to inform you of in my last dispatch, and had not joined me.

⁹ *St. Clair Papers*, II:258-260.

"On the 3d instant, the army had reached a creek about twelve yards wide, running to the southward, which I believe to have been the river St. Mary, that empties into the Miami of the lake; arrived at the village about four o'clock in the afternoon, having marched near nine miles, and were immediately encamped upon a commanding piece of ground in two lines, having the above-mentioned creek in front. The right wing composed of Butler's, Clarke's, and Patterson's battalions, commanded by Major-General Butler, formed the first line; and the left wing, consisting of Bedinger's and Gaither's battalions, and the Second regiment, commanded by Colonel Darke, formed the second line, with an interval between them of about seventy yards, which was all the ground would allow.

"The right flank was pretty well secured by the creek, a steep bank, and Faulkener's corps; some of the cavalry and their pickets covered the left flank; the militia were thrown over the creek, and advanced about one quarter of a mile, and advanced in the same order; there were a few Indians who appeared on the opposite side of the creek, but fled with the utmost precipitation on the advance of the militia; at this place, which I judged to be about fifteen miles from the Miami village, I had determined to throw up a slight work, the plan of which was concerted that evening with Major Ferguson, wherein to have deposited the men's knapsacks, and every thing else that was not absolutely necessary, and to have moved on to attack the enemy as soon as the First regiment was come up; but they did not permit me to execute either, for on the 4th, about half an hour before sunrise, and when the men had just been dismissed from the parade (for it was a constant practice to have them all under arms a considerable time before daylight), an attack was made upon the militia. Those gave way in a very little time, and rushed into camp, through Major Butler's battalion, which, together with part of Clarke's, they threw into considerable disorder, and which, notwithstanding the exertions of both those officers, was never altogether remedied, the Indians following close at their heels; the fire, however, of the front line checked them, but almost instantly a heavy attack began upon that line, and in a few minutes it was extended to the second likewise; the great weight of it was directed against the center of each, where the artillery was placed, and from which the men were repeatedly driven with great slaughter; finding no great effect from our fire, and confusion beginning to spread from the great number of men who were falling in all quarters, it became necessary to try what could be done with the bayonet.

"Lieutenant-Colonel Darke was accordingly ordered to make a charge with part of the second line, and to turn the left flank of the enemy. This was executed with great spirit. The Indians instantly gave way, and were driven back three or four hundred yards; but, for the want of a sufficient number of riflemen to pursue the advantage, they soon returned, and the troops were obliged to give back in their turn. At this moment they had entered our camp by the left flank, having pursued back the troops that were posted there.

"Another charge was made here by the Second regiment, Butler's and Clarke's battalions, with equal effect, and it was repeated several times, and always with success; but in all of them many men were lost, and particularly the officers, which, with some raw troops, was a loss altogether irredeemable. In that I just spoke of, made by the Second regiment and Butler's battalion, Major Butler was dangerously wounded, and every officer of the Second regiment fell except three, one of whom, Mr. Greateon, was shot through the body.

"Our artillery being now silenced, and all the officers killed except Captain Ford, who was badly wounded, more than half of the army fallen, being cut off from the road, it became necessary to attempt the regaining it, and to make a retreat if possible. To this purpose, the remains of the army were formed, as well as circumstances would admit, towards the right of the encampment; from which, by the way of the second line, another charge was made upon the enemy, as if with the design to turn their right flank, but, in fact, to gain the road; this was effected, and as soon as it was open, the militia took along it, followed by the troops, Major Clarke, with his battalion, covering the rear.

"The retreat in those circumstances was, you may be sure, a very precipitate one; it was, in fact, a flight. The camp and the artillery were abandoned, but that was unavoidable; for not a horse was left alive to have drawn them off had it otherwise been practicable. But the most disgraceful part of the business is that the greatest part of the men threw away their arms and accouterments, even after the pursuit, which continued about four miles, had ceased. I found the road strewed with them for many miles, but was not able to remedy it; for, having had all my horses killed, and being mounted upon one that could not be pricked out of a walk, I could not get forward myself, and the orders I sent forward, either to halt the front, or to prevent the men parting with their arms, were unattended to. The rout continued quite to Fort Jefferson, twenty-nine miles, which was reached

a little after sun-setting. The action began about half an hour before sunrise, and the retreat was attempted at half an hour after nine o'clock.

"I have not yet been able to get returns of the killed and wounded; but Major-General Butler, Lieutenant-Colonel Oldham, of the militia, Major Ferguson, Major Hart, and Major Clarke are among the former. Colonel Sargent, my adjutant-general, Lieutenant-Colonel Darke, Lieutenant-Colonel Gibson, Major Butler, and the Viscount Malartie, who served me as an aid-de-camp, are among the latter; and a great number of captains and subalterns in both.

"I have now, sir, finished my melancholy tale—a tale that will be felt sensibly by every one that has sympathy for private distress, or for public misfortune. I have nothing, sir, to lay to the charge of the troops but their want of discipline, which, from the short time they had been in service, it was impossible they should have acquired, and which rendered it very difficult, when they were thrown into confusion, to reduce them again to order, which is one reason why the loss has fallen so heavy upon the officers, who did every thing in their power to effect it. Neither were my own exertions wanting; but, worn down with illness, and suffering under a painful disease, unable either to mount or dismount a horse without assistance, they were not so great as they otherwise would, and, perhaps, ought to have been. We were overpowered by numbers; but it is no more than justice to observe that, although composed of so many different species of troops, the utmost harmony prevailed through the whole army during the campaign."¹⁰

The percentage of loss in this disaster in killed and wounded was unprecedented—even greater than in Braddock's defeat.¹¹ Nearly always when disaster overtakes such an army as St. Clair's, charges and countercharges amongst the survivors and their friends follow; and they were many after this defeat. Some of these were aroused by a postscript which St. Clair added to his report, reading as follows:

¹⁰ *St. Clair Papers*, II:262-265.

¹¹ "In Braddock's battle, of one thousand two hundred men, seven hundred and fourteen were killed and wounded; in St. Clair's, of fourteen hundred men, eight hundred

and ninety-four; of Braddock's officers, eighty-six in number, sixty-three were killed and wounded; of St. Clair's, sixty-one out of about an equal number (86 to 90)." (*Western Annals*, p. 366 note.)

"Some orders that had been given to Colonel Oldham over night, and which were of much consequence, were not executed; and some very material intelligence was communicated by Captain Slough to General Butler, in the course of the night before the action, which was never imparted to me, nor did I hear of it until after my arrival here."¹²

The editor of the *St. Clair Papers* says:

"This postscript caused a sensation, and the correctness of the statement was immediately challenged by a brother of General Butler, who, it seems, relied on false representations made by Ensign Morgan. The latter was so anxious to curry favor with General Knox that he made the charge publicly that Captain Slough did not receive his orders from General Butler, and that he did not report to him, as represented. The result was, that he was tried before a court-martial, and dismissed the army for falsehood and insubordination."¹³

Many other bitter controversies arose and are discussed in various writings referred to in the footnotes. The responsibility for the disaster also became a subject of sharp controversy in Congress, which appointed a committee to investigate it. This committee in a unanimous report exonerated St. Clair from blame.¹⁴

Great was the shock to the Kentucky people when they learned of St. Clair's defeat, and wild rumors prevailed. It was reported that his troops were penned in Fort Jefferson, and Scott and Wilkinson called for volunteers to relieve them. Considerable forces were collected, when later reports showed the army had fled far from danger. Many unfounded reports circulated in Kentucky of the mistreatment of the troops from the district in St. Clair's army. Thus Col. George Nicholas, who had removed to Kentucky from eastern Virginia the year before, wrote Mr. Madison:

"Some of militia were discharged sixty miles in the enemy's country without a gun to protect themselves to fort Washington; those who were discharged at Ft. W. without provisions to bring them to our settlement—the whole of them naked and without a shilling of pay, . . . 800 miles

¹² *St. Clair Papers*, II:266-7.

¹⁴ *Id.* 286-299.

¹³ *Id.* 267 note.

from home. Many have died in consequence of this treatment."¹⁵

The erroneous nature of these reports, and their correction, have been seen in the narratives already quoted from Denny's journal and St. Clair's report, which show that the fleeing men threw away their arms, and that all in the army lacked food.

Soon after St. Clair's defeat, Wilkinson, on the recommendation of Col. Thomas Marshall and others, was appointed lieutenant-colonel in the United States Army,¹⁶ in which he was to rise step by step to be commander-in-chief.

St. Clair's defeat, and the alarming growth of savage hostility consequent upon it, thoroughly aroused the Federal Government to the need for a stronger and far better conducted expedition to suppress the northwestern Indians. Generals Scott, Morgan, Wayne and Lee, and Colonel Darke, were all considered for the command; and, much to the disgust of the southern and particularly the Kentucky people, General Wayne was chosen. They expected little more than incapacity and blundering such as they attributed to Harmar and St. Clair.

Wayne was confirmed as commander-in-chief April 3, 1792, and two months later went as far west as Pittsburgh and there remained to make preparations for his campaign; but over two years more were to pass before he was ready to strike the enemy. Meantime the Kentuckians became daily more restive under what they considered his inexcusable inaction, when they were subjected to continued savage inroads, yet forbidden to protect themselves by expeditions of their own.

¹⁵ *Madison papers*, Congressional Library, p. 86-7.

¹⁶ Marshall's *Kentucky*, I:390.



(Filson Club Collection)

GEORGE NICHOLAS

CHAPTER XXXII

KENTUCKY'S FIRST CONSTITUTION: ASSUMPTION

On April 3, 1792, forty-five delegates to the convention called for that day met at Danville to frame a constitution for the new State of Kentucky. Easily the most influential member was Col. George Nicholas. He was an able and accomplished lawyer and had won much reputation as a statesman when championing the adoption of the Federal Constitution in the Virginia Convention four years earlier. Amongst other able men in the Kentucky convention were Isaac Shelby, Richard Taylor, Alexander Scott Bullitt, Robert Breckinridge, Caleb Wallace, Samuel McDowell (its president), John Campbell, John Edwards, James Garrard, etc.¹

The constitution adopted contained several novel features. In Virginia and other states a time-honored requirement for voters was a property qualification. The Kentucky constitution gave every free white man the right of suffrage who was twenty-four years of age, and had been a resident of his county for one year

¹ The members of the convention which framed the constitution were: from Fayette, Hubbard Taylor, Thomas Lewis, George S. Smith, Robert Fryer, and James Crawford; from Jefferson, Richard Taylor, John Campbell, Alexander S. Bullitt, Benjamin Sebastian, and Robert Breckinridge; from Bourbon, John Edwards, James Garrard, James Smith, John McKinney, and Benjamin Harrison; from Nelson, William King, Matthew Walton, Cuthbert Harrison, Joseph Hobbs, and Andrew Hynes; from Madison, Charles C a v e n d e r, Higgason Grubbs, Thomas Clay, Thomas Kennedy, and Joseph Kennedy; from Mercer, Samuel Taylor, Jacob Froman, George Nicholas, David Rice, and Samuel McDowell; from Lincoln, Benjamin Logan, John Bailey, Isaac Shelby, Benedict Swope, and William Montgomery; from Woodford, John Watkins, Richard Young, William Steele, Caleb Wallace, and Robert Johnston, and from Mason, George Lewis, Miles W. Conway, Thomas Waring, Robert Rankin, and John Wilson. (Collins' *Kentucky*, I:365.)

and of the state for two years. This has been said to be "probably the first experiment in manhood suffrage in any modern state."²

Article IX of the Constitution, concerning slaves, deserves notice as showing the liberal and humane sentiment prevailing at this early time amongst the leaders of the Kentucky people. It said:

"the Legislature . . . *shall* pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors and preventing their becoming a charge to the county in which they reside."

The emancipation sentiment displayed by this provision strongly contrasts with that prevailing a half century later, when southern slave owners were incensed by northern abolitionist demands for liberation of the slaves without compensation to the owners.

Concerning the importation of slaves, the article provides that the Legislature

"Shall have full power to prevent slaves being brought into this state as merchandise [and] shall have full power to prevent any slaves from being brought into this state from a foreign country, and to prevent those from being brought into this state who have been, since [January 1, 1789] or may hereafter be imported into any state of the United States from a foreign country."

The most remarkable clause of the slavery article, however, concedes to the Legislature the power to emancipate slaves upon compensating the owners. The power of the Legislature to pass an emancipation law is only limited by the following provision:

"The legislature shall have no power to pass any laws for the emancipation of slaves without the consent of the owners, or without paying the owners, previous to the emancipation, a full equivalent in money for the slaves so emancipated."

The just principle here stated was the same repeatedly advocated by Abraham Lincoln, who justified his emancipation proclamation of 1863 only as a military necessity. Unless justified by such an overwhelming public necessity, to deprive an owner of any of his lawful property,—even slaves or liquor—without

² Shaler's *Kentucky*, 122.

fair compensation, is repugnant to every sentiment of right or common honesty. *If the public welfare requires that a citizen be deprived of his property, then the public—the state, or nation—should bear the loss, and not the individual owner.* This is a plain rule of right which altruistic agitators often ignore.

Another unusual article in the Kentucky Constitution was one giving the supreme court, called the Court of Appeals, not only appellate but original jurisdiction of suits involving titles to land. Under the conditions then prevailing in Kentucky, this provision was deemed wise; for trials of titles by judges and juries in the counties where the lands lay were probably found often unfair, where one party was a non-resident and the other a resident of the county. Colonel Nicholas prepared and advocated this article; but, as he had not discussed it before he was elected, he felt he should not ask its adoption without having it first approved by his constituents. He therefore resigned from the convention, was re-elected, and then had the provision adopted.

The Convention having been given authority to adopt the constitution, and the time being near for organizing under it, it was not submitted to the people for approval, but was promulgated directly by the convention on the 19th day of April, 1792. In accordance with the acts of Virginia and the Federal Congress, Kentucky became the fifteenth member of the Federal Union, on June 1, 1792.

Under the new constitution, elections for state officials were held, and Isaac Shelby was chosen first governor of the commonwealth. Lexington was designated as the temporary capital, and on June 4, 1792, Governor Shelby and a majority of the legislators assembled there. The next day he addressed a joint meeting of the two houses, presided over by Alexander Scott Bullitt as speaker of the senate and Robert Breckinridge as speaker of the house. A commission was appointed to select a permanent site for the capital, and chose Frankfort. By joint ballot of the two houses John Brown and John Edwards were chosen the first United States senators.

During the first years of Federal Government the situation of the Kentucky people goes far to explain their strong opposition to the Government's course concerning several problems deeply affecting them. First, it must be understood that nearly all were dreadfully poor—so poor that, although they had earnestly

desired and sorely needed a state government of their own, they had feared they would be unable to support one. So general was this fear that when at last Virginia and Congress offered them statehood many, even of the people who had clamored for it, wished it refused.

This seems almost incredible in view of the small number of officials the new state would require, the absurdly meagre salaries and fees to be paid them, the small outlays needed for public buildings, and especially in view of the fertility of Kentucky's lands. But it must be remembered that for some fifteen years the district had been harried by Indian warfare; that probably not one in ten of the immigrants who made the bulk of the population had come with more than the barest necessities wherewith to earn a living; and that they were prevented from reaching any market—to the east by the Appalachian Mountains, and to the south by the closing of the Mississippi.

During Kentucky's first decade of statehood, both the interests and the political sentiments of her people were mightily affected by several economic policies of the Federal Government. We have seen their indignant complaints of its war methods. Only less odious soon became its course with reference to the public finances. Early in 1790 Alexander Hamilton, the brilliant and dominating leader of the extreme Federalists, as Secretary of the Treasury submitted to Congress his reports on the public debts and revenue of the United States. They at once aroused strenuous opposition and led to long and heated debates.

These debts contracted by the Confederation had been assumed by the new government, and were of two classes, foreign and domestic—the foreign being those due France and other foreign creditors, and the domestic those due in America. About the payment of the foreign debts there was no controversy. They amounted to nearly \$12,000,000, and all agreed they should be paid at par, principal and interest, and also that prompt measures should be taken to raise the means to pay them. Nor was there any serious controversy over paying the domestic debts of the Confederation; but there was a long and bitter dispute about the persons to whom they should be paid.

Because that dispute greatly concerned the Kentucky people and ended in what they considered flagrant injustice to them, it will be well to consider briefly the history of these domestic debts

of the Confederation. The Continental Congress, during its fourteen years of government, had contracted a vast number of them of various kinds. It had issued over \$240,000,000 in paper money.³ This consisted of its bills entitling the holders to receive specified sums in silver. Every bill was thus a certificate acknowledging a debt to the holder. With this paper money the Confederacy paid its many thousands of soldiers and others for services, and other thousands for supplies to carry on the war. Often—very often, as we have seen—these services and supplies were not paid for at all. It has also been seen that, from the beginning, these continental bills depreciated in value—and at a rate increasing rapidly each year. A continental soldier, enlisting in January, 1778, for a three-year term and at a fixed monthly rate of pay in continental bills, then worth twenty-five cents on the dollar, by January, 1779, found the dollars he had received worth only twelve and one-half cents; by the end of the year less than three cents, and by the end of the next, only one cent, or nothing. Many a soldier held his enlistment and discharge certificates showing what he should have been paid and was not. Many a farmer, who voluntarily, or under impressment, gave up his grain, or flour, or horses, or wagons, or cattle for the armies, got no more than such a certificate from the Confederation acknowledging its debt for them, but never could collect the debt.

In its desperate financial situation, the Continental Congress from year to year resorted to innumerable expedients to get money—amongst them lotteries. In many different forms, besides money bills, it issued evidences of its indebtedness to soldiers and other creditors. Nor did it stop there. It assumed to scale the debts in many ways, and virtually forced these creditors to accept substituted certificates calling for reduced payments. By the end of the Confederacy no man could do more than guess the amount of its outstanding domestic debts; but Congress, disregarding the \$240,000,000 of its emitted money bills, chose to recognize as binding upon it only some \$54,000,000 of its later certificates of debt issued for new loans to it, or in substitution for its earlier obligations, or for other considerations. But even these certificates were not worth in the market

³ Schucker's *Finances and Paper Money in the Revolution*, p. 127.

more than a very small fraction of their face value; for it was known the Confederation was almost hopelessly insolvent when it issued them.

But when the Constitution was published in 1787, alert financiers, seeing that if it should be adopted the new Federal Government, unlike its predecessor, would have power to levy taxes directly upon citizens and property in every state, realized that this power would give the new Government the promise of solvency and rising credit; for the people were industrious and their material resources unrivaled. It was everywhere known also that the sixth Article of the Constitution provided:

“All Debts contracted, and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.”

When, therefore, it became reasonably sure that the Constitution would be adopted, shrewd speculators—bankers, merchants, and others, especially in commercial centers such as New York, Boston, and Philadelphia—saw an opportunity to buy up for trifling sums the certificates issued by the Confederation for these debts. The later outstanding certificates were particularly sought after, for although the Confederation had conveniently scaled and repudiated many of its previous debts, it had not done so as to these later certificates, but acknowledged them as binding. Speculation in them of course raised their market price, which in New York rose perhaps to eight or ten cents on the dollar by the time the Federal Government was organized in 1789.

But during that period of almost incredibly slow communication, people who lived in places distant from the large cities—for example, in central and western Pennsylvania and Virginia, and in the more southern states—were generally ignorant of this advance in the value of the certificates, and believed them of little or no more value than they had been during the Confederacy. This fact was well known to speculators who kept in close touch with the proceedings and sentiment of Congress, then sitting in Federal Hall, on Wall Street, New York; and they did not fail to take advantage of their less sophisticated fellow citizens. Many an original holder of the certificates gladly parted with them at a small advance upon their previous trifling market prices.

On January 9, 1790, Hamilton submitted to Congress his report on the settlement of the debts of the United States. He recommended the payment of these certificates, at their full face value, to any holders who presented them, regardless of what had been paid for them and regardless of their real value when issued by the Confederation, or afterward. The speculators in Wall Street and elsewhere were jubilant. The market price of the certificates jumped higher day by day, and soon vast fortunes were made in them.

Hamilton's report was a long and most ingenious one; but so intricate in calculations, alternatives and arguments that some of his opponents suspected it was designed to confuse Congress and the public. In the Senate it was considered in secret sessions. When read in the House, probably few at first understood its significance; but this was soon seen, and a great storm arose. It was charged that a vast number of original holders of the certificates who had parted with them for almost nothing, and other creditors of the Confederation, were being robbed to pay enormous profits to the speculators.

More deeply perhaps than any other part of the nation, the people of Kentucky were concerned in this great controversy. To understand their attitude toward Hamilton's system of finance, it is well to know what they thought of Hamilton himself, as well as the effect the system would have on them. Their leaders were aware of the growing split between him and his Federalist adherents and those who believed as Jefferson did, and as his great political follower, Abraham Lincoln, did, in "government of the people, by the people and for the people". Rightly or wrongly, Kentucky leaders of republican principles soon came to believe that Hamilton and his followers not only had no faith in the democratic-republic created by the Federal Constitution, but had accepted it only as a temporary escape from disunion and anarchy, and aimed to change it into an aristocratic republic, if not indeed into a monarchy.

Mr. Bowers, in his *Jefferson and Hamilton*, describing, with many citations, the plan of Federal Government which Hamilton had advocated in the Constitutional Convention, says:

"This plan was a direct contradiction of that which was adopted. There is nothing conjectural about that fact—

the records are indisputable. We have the plan, the brilliant five-hour oration in its behalf, the brief from which he spoke. These have come down to us, not from his enemies, but from his partial biographers, his son the editor of his 'Works', and the report of Madison, on the authenticity of which he himself passed. This plan provided for the election of a President for life; for Senators for life or during good behavior, and by electors with a property qualification; and for the crushing of the sovereignty of States through the appointment by the President of Governors with a life tenure and the power to veto any act of the State legislatures, though passed unanimously. . . .

"His republic, and in his great speech he had conceded that no other form would be accepted by the people, 'was to be an aristocratic as distinguished from a democratic republic, and the power of the separate States was to be effectually crippled.' In one of his brief Convention talks he said of the States that 'as States he thought they should be abolished.' Even after the Constitution had been adopted, he believed that one of the objects of administration should be 'to acquire for the federal government more consistency than the Constitution seems to promise for so great a country,' to the end that it 'may triumph altogether over the state governments and reduce them to an utter subordination, dividing the large States into simpler districts'. . . . His motive for joining in recommending [the Constitution] to the people is conclusively shown in his last Convention utterance: 'No man's ideas are more remote from the plan than my own are known to be; but is it possible to deliberate between anarchy and confusion on one side, and the chance of good to be expected from the plan on the other?' "⁴

Hamilton's desire to establish a centralized aristocratic government was no doubt known by the delegates of every state represented in the Constitutional Convention, and soon became known by leading men generally. They knew of his great abilities and dominating character, and also knew that a very large class of his followers, consisting of "respectable people of property," desired just such a federal government as he advocated and, so far as practicable, was determined to secure. It was precisely that kind of government which was feared and

⁴ Claude G. Bowers, *Jefferson and Hamilton*, pp. 30-2.

inveighed against by Samuel Adams in Massachusetts, by Patrick Henry and George Mason in Virginia, and by the champions of popular rights in all the states. It was that fear which almost caused Virginia and other states to refuse adoption of the Federal Constitution and fortunately led to the first ten amendments to secure popular rights and the reserved rights of the states.

Intelligent leaders everywhere knew that the essential basis of an aristocratic government, such as Hamilton and his followers wanted, is property—wealth; that an aristocratic republic is always and everywhere plutocratic also. Naturally, therefore, when it became known in 1789 that he was to be Secretary of the Treasury, to formulate the financial policy of the administration, and to appoint and control its army of revenue officers, people of means and social standing looked to him as their leader and hoped he would rescue them from democracy. For years, under the weak confederacy, they had witnessed much disorder, the stagnation of trade, and great depreciation of property values; and, throughout the history of free governments, people of that class, under such conditions, are found clamoring for strong government to curb the populace. A recent illustration is Italy under Mussolini.

Hamilton's appointment was hailed with delight by most people of that class; but it was very differently viewed by men who clung to their faith in the political principles all had contended for in the beginning of the Revolution. They demanded a democratic republic.

As Hamilton's report on the domestic debts made provision only for the payment of the outstanding and acknowledged certificates of the Confederation, these were the subject of debate when the adoption of his report was moved in Congress. Led by Ames of Massachusetts, the advocates of the scheme contended for "the letter of the bond"—that the certificates were promises to pay the holder one hundred cents on the dollar and therefore law and good faith required that payment. Madison led the opposition. He maintained that neither technical law nor good faith would justify such a course. He was willing that the holders who had bought certificates should be paid the highest market price for them, although much more than the holders had paid

for them; but he contended that the remainder, up to par, should be paid to the original holders.⁵ He declared:

"He must renounce every sentiment which he had hitherto cherished, before [he] could admit that America ought to erect the monuments of her gratitude, not to those who saved her liberties, but to those who had enriched themselves in her funds."⁶

The original holders, he said,

"may appeal to justice, because the value of the money, the service, or the property advanced by them, has never been really paid to them. They may appeal to good faith, because the value stipulated and expected is not satisfied by the steps taken by the Government. The certificates put into the hands of the creditors, on closing their settlements with the public, were of less real value than was acknowledged to be due; they may be considered as having been forced, in fact, on the receivers. They cannot, therefore, be fairly adjudged an extinguishment of the debt. . . . They may appeal to humanity, for the sufferings of the military part of the creditors can never be forgotten, while sympathy is an American virtue, to say nothing of the singular hardship . . . of requiring those who have lost four-fifths or seven-eighths of their due, to contribute the remainder in favor of those who have gained in the contrary proportion."⁷

This proportion, he said, was the one given by the advocates of the purchasing holders.

What Madison here suggests—that the original holders would not only lose their just claims by Hamilton's scheme, but be taxed to pay the certificates at par to the speculators—was to rankle long in the breast of many a patriot who had suffered for the cause of independence, and, left in poverty by his govern-

⁵ Madison did not advocate paying anything to intermediate holders because they could be assumed to have lost little in selling the certificates they had bought; because they could rarely produce evidence, except their own assertion, that they had ever held the certificates; because "they were perfectly free both

in becoming and ceasing to be creditors and because in general they must have gained by their speculations;" and finally, because any provision to pay them would "lead us into a labyrinth."

⁶ Hunt's *Writings of Madison*, V: 448.

⁷ *Id.* 443.

ment, found himself compelled to pay taxes to enrich these speculators.

In no other state, perhaps, was the feeling of imposition more general, or more bitter, than in Kentucky. In no other had so large a proportion of the people suffered more by the Confederacy's failure to pay its money bills and other certificates of debt; for nearly every man had been a soldier and—if he had received anything—had received these certificates for the services he rendered and the supplies he furnished to carry on the war.

While the debates over Hamilton's report were going on in Wall Street, speculators sent emissaries into remote regions to buy up the certificates from unwary original holders. Fast ships were sent to southern ports with coin to pay for them.⁸ Madison's proposal to pay the present holders no more than the highest market price of the certificates was voted down and the Secretary's plan to pay them at par was adopted. The certificates soon went to par. Bowers says that of sixty-four members of the House, twenty-nine—nearly half—were security holders.⁹

The next feature of Hamilton's Report on the Public Debts aroused even greater opposition in Congress. He proposed that the United States should assume and pay the debts of all the states! In the aggregate they were said to amount to some \$21,000,000, but no one really knew what the true amounts were, nor of the infinite variety of purposes for which they had been created. Some states, such as Virginia, had paid nearly all her debts; Massachusetts, on the other hand, had a very large debt still unpaid.

There could be no claim that the Federal Government was legally bound for those state debts; but its assumption of them was advocated upon two grounds: First it was said they had been contracted to support a war involving all the states, and therefore the Federal Government, representing all the states, was morally obligated to pay them. In reply, opponents of assumption denied that either all, or most, of the state debts had been contracted for any such national purpose, but for local purposes of the states. They demanded an accounting to find what the debts of each state amounted to, and what they were really

⁸ See citations in Bowers' *Jefferson and Hamilton*. ⁹ *Id.* p. 56.

contracted for, before the United States should assume to pay them; but this the Federalist majority refused.

The second reason advanced in favor of the assumption of the state debts was that it would advance the financial credit of the Federal Government. To this the opponents replied that for a government to involve itself in \$21,000,000 of additional debts, for which it was not bound, was a strange way to raise its financial credit. Furthermore, they charged that it was plainly unjust to tax the people of states like Virginia, which owed only small debts, to pay the debts of other states, such as Massachusetts, which had large ones; that to this extent it was virtually making Virginia pay twice her share of the war burden and Massachusetts pay none! Since Kentucky was expressly bound by the separation act to pay her "full proportion of the debts of the United States,"¹⁰ her people felt they would be most unjustly taxed to pay off the debts of Massachusetts, including even those which were not contracted for any national purposes, but only for the benefit of that state.

After long and bitter debates in Congress and angry discussion elsewhere, Hamilton's proposal was defeated by the narrow margin of two votes. At once many of his followers, especially in the northeastern states, and including of course the speculators, predicted not only financial ruin for the country, but the breaking up of the Union; and not a few of them threatened secession. To emphasize this threat a strong Federalist faction in Congress opposed the passing of any laws for raising money to carry on the Federal Government. That meant its disruption, to prevent which a few influential opponents of assumption withdrew their opposition to it, and Hamilton's plan to have the United States assume all the debts was adopted.

Soon after its adoption Hamilton introduced another feature of his scheme—a plan for raising revenue for the United States. It included a tax on whisky, which aroused violent opposition in Congress as being both unconstitutional and oppressive. In western Pennsylvania the opposition culminated in the well-known "Whisky War," which was only suppressed by the approach of a great Federal army under Alexander Hamilton,

¹⁰ Hening's *Statutes at Large*, XIII:17-21.

who was ever intensely ambitious for military fame. In the Virginia mountain counties and in Kentucky opposition to the tax was no less general, but did not there lead to open resistance. Colonel Thomas Marshall became chief revenue collector in Kentucky, and by doing so incurred great obloquy. He was "burned in effigy at Lexington"; "collectors were assaulted; some received insulting and abusive language; others had their papers destroyed, their horses' ears cropped, manes and tails close shaved, their saddles cut to pieces; and such was the general abuse that very few were found hardy enough to undertake the office."¹¹

In many sections it was claimed that the tax was unconstitutional because not uniform. The Kentuckians had another objection. They maintained that the tax was peculiarly oppressive to them because their paying it had been made difficult, and in many instances impossible, by the national government's failure to restrain its Indian subjects from warring on them and permitting Spain to close their only outlet to the world markets for their products.¹²

However theoretically wise and just whisky taxes may be, the imposition of them has nearly always and everywhere been resented, opposed and evaded. This has been peculiarly true in mountain regions, not, as many assume, only because the people there are more lawless than elsewhere, or can better evade or resist the tax, but because very many of them can procure the necessaries of life only by converting their unsalable grain into salable whisky. Many a moneyless mountaineer farmer, with a small patch of corn and far from any road, was utterly unable to carry his small surplus crop to a profitable market; but his whisky was both easily transported and salable. Kentucky people, during and after the Revolution, were similarly situated with reference to a whisky tax, for they had no way to get their surplus grain to a market, whereas whisky was easily sold. In the West it was not only universally used as a beverage and medicine, but, like peltries, was a common substitute for money. The letters of

¹¹ Innes to W. Cary Nicholas, Library of Congress, *Innes Papers*, 1792, Library of Congress, *Madison Papers*; c. f. Coulter in *Mississippi Valley Historical Review*, Vol. XI, XIX.

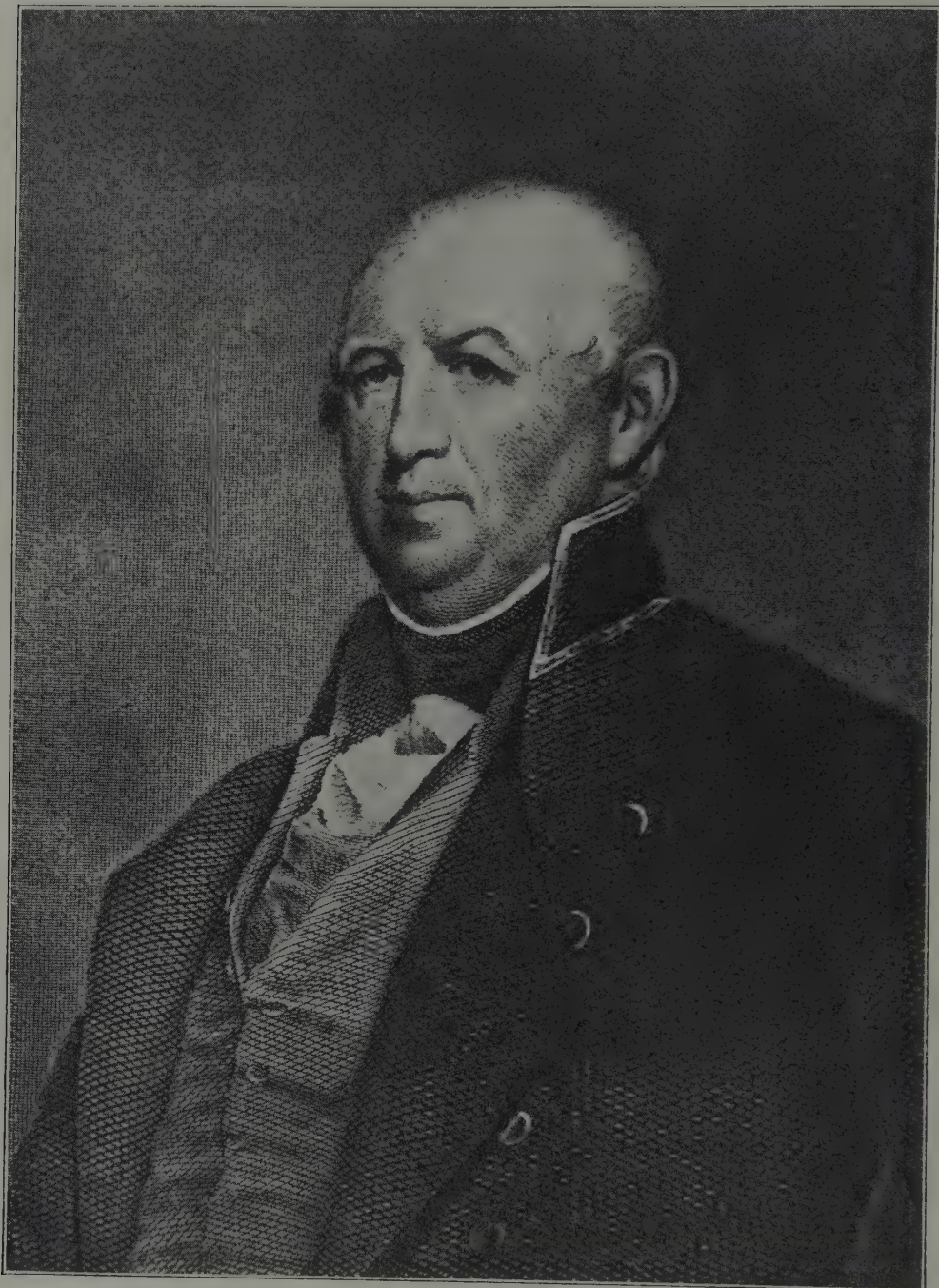
¹² Nicholas to Madison, Feb. 1, No. 3, p. 389.

the time show that throughout the many years when coins were rarely seen there and paper money was worthless, whisky was accepted like cash.¹³ The Federal Government's action in taxing it naturally caused great resentment.

Hamilton's plan for paying both the Federal and state debts having been adopted, and his revenue bill put into operation, the debts were funded and in time all paid. His Federalist admirers thought him the creator of the nation's credit; Republicans believed that he had put upon the country a great wrong. Because the people of Kentucky were nearly all Republicans and entertained this belief, and because it mightily affected their future politics, their side only of the great controversy has been presented in these pages.

¹³ Thus Captain Bailey, when his troops at Vincennes had been for fifteen days subsisting on half rations and neither he nor his government could buy a bushel of flour on credit, wrote the commandant at the

Falls begging a supply of provisions and said: "If you have not provisions, send whisky which will answer as good an end." (*Illinois Historical Collections*, VIII:581.)



(Filson Club Collection)

ISSAC SHELBY
(1750-1826)

CHAPTER XXXIII

PRO-FRENCH ENTHUSIASM: LOUISIANA EXPEDITION

Hardly had the angry conflict over Hamilton's financial plans begun to subside when another and very different cause of excitement arose to agitate the nation. The French Revolution had overthrown monarchy and given France a radically democratic republic. The world had never known so overwhelming a wave of enthusiasm for "the rights of man"—for liberty and popular rule. Nor was it confined to France. It swept through every advanced nation of Europe whose people had come to resent the rule of kings and a privileged class. Even in England thousands cheered every victory of the armies of the French Republic over those of crowned heads leagued to crush it; and many leading men—statesmen and others—ardently hoped for the Republic's success.

In the United States the outburst of sympathy for France was overwhelming. Even many of the Federalists shared it; for none could forget the help France had given us during the dark years of our own Revolution. In New Orleans and throughout Louisiana the French rapturously hailed the new republic and the success of its arms. They had vigorously resisted being given over to Spain by the secret treaty of 1763, and, although subdued by the Spanish army under O'Reilly, had never lost hope of being reunited to their mother country. When they learned that in September, 1792, France had abolished its royal government and set up a republic, this hope burst into enthusiasm. As the new French republic championed liberty everywhere, they confidently looked to it for rescue from the yoke of Spain. A hundred and fifty of them—prominent citizens of New Orleans—risked execution for treason by addressing a petition begging France to free Louisiana. The sympathies of the French citizens there were not concealed; at their most public meeting place, the theatre, they demanded that the orchestra play "La Marseil-

laise," and frantically joined in singing that rousing pæan of liberty. The Spanish governor, Carondelet, took hasty measures to suppress the excitement and required the colonists to sign pledges of loyalty and affection to the Spanish King. A number of French citizens who were most active in the new revolutionary movement were arrested and deported to Havana.¹ So early as May, 1791, says Gayarré, the court of Madrid was so alarmed by the rapid spread of French revolutionary ideas that the King ordered "the prohibition of the introduction into Louisiana of boxes, clocks, and coin, stamped with the figure of a woman dressed in white and holding a banner in her hand, with this inscription: *American Liberty*. It was feared that there might be a tongue and a voice in these inanimate objects."²

In France it was the dream of revolutionary enthusiasts to propagate their great doctrine of liberty and peoples' rights, and overthrow royal rule everywhere. Nowhere, outside of France and Louisiana, was this propaganda more sure of a friendly reception than amongst the people of the United States. To intensify their sympathy and gain their aid, eloquent French orators and essayists glorified the American Revolution which vindicated the great principle of liberty France was now fighting for. Naturally, liberty-loving Americans were flattered to find their pioneer example in republicanism followed by the leading nation of Europe, and were fired with zeal in behalf of their old ally.

During this tremendous upheaval, and when France was heading for war with Spain and Great Britain, many men of vision in the British and Spanish possessions in North America, and many French sympathizers in the United States, saw the opportunity for a concerted movement to free Louisiana and Florida from the yoke of the Spanish King, and Canada from that of George III; and to this end many and various were the proposals from those countries to the Girondist ministry of France. They fell upon willing ears, for the ministry was already considering a grand aggressive scheme embracing nearly all the Spanish and British possessions in America. To further this design, it determined in November, 1792, to send Edmond Genet as minister to the United States, and next month appointed him. He was

¹ Gayarré, p. 327.

² Id. p. 309.

told that war with England and Spain was imminent, and was directed, if possible, to secure a treaty with the United States for "the extension of the empire of liberty," guaranteeing the sovereignty of the peoples liberated.³ Before he left France he was authorized to secure volunteers in the United States to assist the French of Louisiana and Florida to overthrow Spain's rule there.⁴

Genet's sailing for America was delayed until late February, 1793, but on April 8th, he arrived in Charleston. There and everywhere he was welcomed with huzzas. Professor Frederick J. Turner says:

"At Charleston, Genet at once communicated the plan that had been drawn up to Governor Moultrie, the well-known Revolutionary leader. Genet and the consul, Mangourit, both reported that a complete confidence existed between them and 'this venerable veteran, the sincere friend of our Revolution.' Genet informed Lebrun in his first dispatch that Moultrie had rendered all the good offices in his power, permitting him to arm privateers, and furnishing him useful information on various parts of his instructions. Moultrie favored combined action by the United States and was impressed by the advantage that the freedom of Louisiana would afford in checking the Indian attacks instigated by Spain, and in opening the Mississippi. Mangourit impressed upon him the idea that all that France would gain from the expedition would be the weakening of the enemy, while the substantial advantages would be with the United States. A few days later the consul visited Savannah to talk with General Mackintosh and others afterward engaged in the expedition against Florida. So far from concealing the purpose of this visit from Moultrie, he induced that obliging official to grant him letters of introduction. Throughout his correspondence, Mangourit shows a steady confidence in Moultrie's good will, even after the latter became dissatisfied with Genet, and officially proclaimed the policy of neutrality for South Carolina."⁵

Genet had come armed with blank commissions for military and naval officers and authority to fit out privateers to attack

³ *American Historical Review*, 1897-1898, p. 657.

⁵ *American Historical Review*, III: p. 663.

⁴ *Id.* p. 658.

enemy vessels. Some of these captured several British vessels and brought them into port at Charleston. His irregular proceedings met no interference, but rather encouragement from Governor Moultrie, and news of it seems to have been hailed with delight by the American friends of the French republic everywhere; for they not only wished our country to join France in war with England and Spain, but generally believed our treaty with France solemnly bound us to do so. Madison, Jefferson, and thousands of other leading men believed this; for Great Britain was threatening to seize the French West Indies, and by treaty the United States had expressly guaranteed those possessions to France "forever against all other powers." The seriousness of this threat to France will be appreciated when it is known that two-thirds of her commercial interests centered in San Domingo.⁶

In Washington's cabinet a clash between Hamilton and Jefferson over the course which the United States should pursue toward the belligerent nations was inevitable. Hamilton, with his set aversion for democracy, looked upon the French Revolution as threatening to overthrow everywhere aristocratic governments such as he venerated and believed best. To Jefferson "it meant republicanism, democracy, the end of privilege"; and from his earliest manhood his steady aim had been to free people from class privilege.

Four questions were to be settled: (1), whether the French Republic and Genet as its representative should be recognized by the United States; (2), whether the United States was bound by its treaty with France to take her part in the existing war; (3), whether, if so bound, it would take her part or remain neutral; and (4), whether the President could lawfully declare neutrality.

Jefferson claimed we were in honor bound to join France in her war against Britain and Spain. No one could reasonably deny that by the treaty with France, the United States had guaranteed her possessions in the West Indies; or that those vitally important possessions were in imminent danger of conquest by her powerful enemies. Hamilton contended—speciously, it must

⁶ *American Historical Association Report*, 1903, II:45; also *id.*, Introduction, p. 8.

be said—that the treaty was abrogated by the overthrow of the French monarchy which made it. Jefferson replied that “the treaties between the United States and France were not treaties between the United States and Louis Capet, but between the two nations of America and France; and, the nations remaining in existence, though both of them have since changed their forms of government, the treaties are not annulled by these changes.”⁷

Washington agreed with Jefferson, and it was resolved to receive Genet as the duly authorized minister from the Republic of France.

The next question dividing the cabinet was the all-important one whether, in view of our treaty obligation to France, the United States should engage in the war, or remain neutral. Hamilton contended that the treaty bound us to take her part only in a defensive war, forced upon her; but that France herself had first made war on Great Britain. In reply Jefferson pointed to the treaty. It said nothing about the occasion or “defensive” nature of France’s war, but obligated the United States to “guarantee . . . from the present time and forever, against all other powers, . . . the present possessions of the Crown of France in America, as well as those which it may acquire.”

Unlike Hamilton, Washington had no partiality for Great Britain or its government. No man perhaps had a keener sense of the wrongs that haughty power had inflicted and was still inflicting upon the American people, both on the high seas and in our western country; nor was any man more thoroughly aware of the injuries inflicted upon us by the devious policies of Spain. But he thought entering the war might bring ruin to his country and that no treaty obligation could bind a nation to ruin itself. Therefore, despite the wrong we were suffering from France’s enemies and even despite our treaty obligations, he resolved to do everything possible to keep this country out of the war. When his attitude became known it shocked the moral sense of a very large part of the American people. Madison wrote that it “wounds the national honor by seeming to disregard the stipulated duties to France. It wounds the popular feeling by a seeming indifference to the cause of Liberty.”⁸

⁷ Jefferson’s *Writings*, III:226-43.

⁸ Madison’s *Writings*, I:580-83, 584; VI:127 n.

Having resolved to avoid war, the question arose, had Washington, as President, any authority to declare the nation neutral? Expressly, the Constitution gave him no such power. He could negotiate and recommend treaties, but could not make them; to give them vitality required a two-thirds vote of approval by the Senate. It was contended that a treaty so approved *became a law*, and that the President had no constitutional power either to make or abrogate a law. Congress alone, it was pointed out, could make or repeal laws, or declare war, or impose neutrality upon the nation. Confessedly there was an existing treaty with France, and Madison, "the father of the Constitution," was clearly of opinion that the President had no power to suspend the French treaty, or declare it inoperative.⁹

Washington evidently realized that this was true, but notwithstanding this, in order to avoid what he feared might be a ruinous war, he decided to issue a proclamation and did so on April 22, 1793. Throughout the country able men considered it a nullity. Jefferson thought it a stretch of power and a cowardly breach of national honor, but acquiesced to avoid the appearance of a divided cabinet.¹⁰

The nature of this famous document seems to have been misunderstood by so many writers that it is set forth in full below.¹¹

⁹ In support of this Madison cited Hamilton's own argument in the *Federalist*. For his arguments concerning the President's power to declare neutrality, see his answers to Pacificus (Hamilton) in *Writings of James Madison*, VI:138-188.

¹⁰ *American Historical Association Report*, 1896, Volume I.

¹¹ "Whereas it appears, that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, on the one part, and France on the other; and the duty and interest of the United States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial towards the belligerent powers;

"I have therefore thought fit by these presents to declare the disposition of the United States to ob-

serve the conduct aforesaid towards those powers respectively, and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition.

"And I do hereby also make known, that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them those articles, which are deemed contraband by the modern usage of nations, will not receive the protection of the United States against such punishment or forfeiture; and further, that I have given instructions to those officers, to whom it belongs, to cause prosecu-

It makes no reference whatever to Spain, or to the conduct of American citizens hostile toward her; for when the proclamation was issued Spain was not a party to the war, although her participation was well known to be imminent. No law had then been passed by Congress concerning neutrality; none prescribed, or prohibited, or punished breaches of neutrality. The next year a Federal neutrality law was indeed passed by Congress (June 4, 1794¹²), at the President's suggestion;¹³ but this was not until after Genet had been recalled and his project to revolutionize Louisiana had been abandoned.

The neutrality proclamation of April, 1793, first declared "the disposition of the United States to observe" a conduct friendly and impartial toward the belligerent powers, "Austria, Prussia, Sardinia, Great Britain and the United Netherlands on the one part, and France on the other." It then exhorted and warned citizens "to avoid all acts and proceedings tending to contravene that disposition." Next the proclamation announced that any citizen who "shall render himself liable to punishment or forfeiture *under the law of nations*, by committing, aiding, or abetting hostilities against any of the said powers . . . *will not receive the protection* of the United States against such punishment or forfeiture." Finally the proclamation announced that instructions were given for "prosecutions to be instituted against all persons who shall . . . violate the law of nations with respect to the powers at war or any of them."¹⁴

This proclamation plainly showed that the Federal executive would oppose aiding France in her war with Great Britain and the other powers named; and this aroused great indignation throughout the country. But, aside from the President's lack of

tions to be instituted against all persons, who shall within the cognizance of the courts of the United States, violate the law of nations with respect to the powers at war, or any of them.

"In testimony whereof I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of Phil-

adelphia, the 22d day of April, 1793, and of the independence of the United States of America the seventeenth. George Washington."

(Spark's *Writings of George Washington*, X:535-6.)

¹² *U. S. Statutes at Large*, I: 381-4.

¹³ Spark's *Writings of George Washington*, XII:103-4.

¹⁴ Author's italics.

authority to declare the nation neutral, since there was no Federal statute prohibiting or punishing non-observance of neutrality, a proclamation threatening punishment only under the law of nations was little more than a gesture—designed to intimidate France's friends and perhaps to satisfy her enemies.¹⁵

"With the appearance of the proclamation, the storm broke. . . . Instantly the Democratic masses saw in the coming of Genêt the opportunity for the manifestation of their feelings. . . . If the reception he received in the aristocratic city of Charleston was enough to turn his head, it was nothing to the continuous ovation accorded him as he proceeded slowly on his month's journey to Philadelphia. Farmers flocked to the rough roads to cheer him and offer him produce at a loss. In every town he was a conquering hero, and everywhere he was greeted with the strains of 'Ça Ira,' and orators paid tribute to France and the principles of its Revolution. The ringing of bells, the shouting of the multitude wearing liberty caps and waving French flags—such the sights and sounds that greeted him everywhere. . . .

"Genêt was met at Gray's Ferry by an immense throng with thunderous cheers—cheers that accompanied him all the way to the City Tavern. The streets packed, throbbing with joy. Looking out over the excited multitude, Genêt 'was quite overcome with the affectionate joy that appeared on every face,' according to a lady of Philadelphia who shared it. 'It is true,' she said, 'that a few disaffected persons did try to check the ardor of the people, but they had the mortification to find all their efforts blasted and were obliged themselves to join the general torrent and affect a cordiality . . . contrary to the feelings of their hearts.' A truly inspiring spectacle. 'It would be impossible, my dear, to give you any idea of the scene.' Then followed the formal welcome. Resolutions were prepared at the home of Charles Biddle, were adopted enthusiastically at an immense meeting in the State House yard. . . . Then the dinner at O'Eller's, the finest the city had ever seen, at four dollars a plate, with Genêt thrilling the diners by singing the French fighting

¹⁵ If an American citizen had been arrested for a violation of this proclaimed neutrality, what penalty could have been imposed upon him? None under a federal law, for there was no such law then existing. Nor did the law of nations prescribe any penalty against individuals violat-

ing neutrality. An offended belligerent power might make complaint to the Federal Government, which might by treaty agree to make compensation, or punish the offender; but no such penalty could be imposed unless authorized by a statute or treaty.

song, the audience roaring 'Ça Ira,' liberty caps passing around, toasts fervent and fiery."¹⁶

The excitement followed and preceded Genet everywhere, and of course extended to republican Kentucky.

It is not designed to give in these pages a detailed account of the course of Genet or his agents, or of the Federal Government concerning the movement to inaugurate a revolution in Louisiana; nor is any elaborate narrative intended of the movement in Kentucky to aid the revolution. Instead, the purpose here is merely to explain the wide-spread sympathy with the movement amongst the Kentucky people, the causes which led to it, and the extent to which it was carried. This seems necessary in order to remove a false impression—created by the first generally read but partisan and unreliable history of the state¹⁷—that the movement in Kentucky to liberate Louisiana from Spanish rule was a buccaneering and treasonable one.

Although the wild popular enthusiasm for France first vented itself in demonstrations of welcome and encouragement for Genet, it early took a more practical form. In May Spain entered the war against France and became the object of special enmity—especially in the West. "Democratic societies" were rapidly organized throughout the country to propagate republicanism and advocate joining France in the war. The first was formed in Philadelphia with the purpose "to help France combat the combined monarchies of Europe and to prevent America from next falling a prey to those powers."¹⁸ The first meeting was held, it is said, in March, 1793; and when, the next month, our neutrality was declared, the society led the opposition to it. Shortly afterward it sent out circulars announcing its purposes, and called on citizens everywhere to form similar organizations. The example was infectious—nowhere more so than in the West. The first one in Kentucky was formed in August at Lexington, its president being John Breckinridge, reputed author of the famous "Kentucky Resolutions of 1798," and democratic leader in the United States Senate. Like societies promptly sprang up in other Ken-

¹⁶ *Jefferson and Hamilton*, pp. 217-219.

¹⁸ *Mississippi Valley Historical Review*, XI:377.

¹⁷ Humphrey Marshall's.

tucky towns to give effect to the overwhelming popular sentiment for coöperation with France.

There could be no doubt whatever about the desire of republican Kentucky for the success of Genet's scheme to liberate Louisiana. The one foreign nation for whom the Kentuckians felt a real affection was France; for the French had been their comrades during the Revolution and made possible both their hold on Kentucky and the winning of the great regions north and south of it. On the other hand, far more intensely than eastern Americans, the Kentuckians hated France's enemies; for during some seventeen years the British had been supplying and instigating the northern Indians to make war upon them, while Spain had kept them poor by shutting the lower Mississippi. Then, too, besides their warm sympathy for republican France and the Louisiana French, and their deep hatred of Great Britain and Spain, the Kentuckians also had a vital interest in Louisiana's liberation because it would break Spain's hold on the Mississippi and open the river for their trade.

Upon Genet's arrival in Philadelphia he received a letter from Gen. George Rogers Clark, written February 5, 1793, expressing his sympathy for France in her struggle "against almost all the despots of Europe," and suggesting his fear that the overthrow of the French republic might lead its victorious enemies to destroy ours. He "recounted his services, his investigations into Spanish defences in the Mississippi Valley, his possession of friends in those places, and his relations to the Indians. He declared that with 400 men he could expel the Spaniards from upper Louisiana, and with 800 he could execute the same operation upon New Orleans. He asked the assistance of two or three frigates at the mouth of the Mississippi to prevent aid to the Spaniards, and three thousand pounds sterling expenses. He said that if his proposal was approved he and his volunteers would 'expatriate ourselves (as the law directs) and are ready to become citizens of the French Republic,'"¹⁹ and would assemble in Louisiana territory.

Long before this letter was written, the French ministry at Paris had been advised to secure General Clark's services in the

¹⁹ *American Historical Review*,
Vol. III, p. 665.

contemplated movement to liberate Louisiana.²⁰ After a time Genet gladly approved his proposal; but this was not done until after long delay and after much precious time was lost. Genet, intoxicated by the plaudits of crowds and the ardent approval of his aims from many eminent men in the East, evidently failed to appreciate the militant strength of France's friends in Kentucky, or the need for promptness in using it. Not until September 17th did Clark receive any reply to his proposal, although Genet had received it four months before. Meanwhile, and unfortunately for its success, rumors had leaked out of General Clark's plan for a rendezvous of western Americans in Louisiana. It was eagerly welcomed in Kentucky, and many men, including noted leaders, were keen to serve under him. He greatly regretted this premature publicity, for he did not doubt getting all the volunteers he would need when ready to use them, and in a revolutionary movement of the kind, secret and swift preparation and surprise of the enemy were all-important.

From Philadelphia on July 12 Genet sent Andre Michaux, an eminent French botanist and republican, with a letter and verbal message to Clark, adopting the latter's proposal and assuring him that the funds he required to cover necessary expenses would be furnished him. A general's commission to command the American volunteers in the French revolutionary army in Louisiana soon followed.²¹ Concluding his letter, Genet said:

"I determined, General, to undertake this great enterprise only with the certainty that, far from being disapproved here, it would be received with pleasure. Proceed now with confidence and surmount all obstacles in order to reach your goal."²²

Some writers have thought Jefferson gave Genet reason to believe he favored this western movement. The fact seems to be, however, that although he had opposed neutrality, had favored joining France in the war, and hoped to see a successful revolution of the French in Louisiana, he stood loyally by the President's proclamation and fully performed his official duties in enforcing it. Two months after the proclamation, writing to Madison, he expressed the well-nigh universal belief in America that "Spain

²⁰ Id. 661.

²¹ *American Historical Association Report*, 1896, p. 986.

²² Id. p. 986. (Translation).

is so evidently picking a quarrel with us that we see a war absolutely inevitable with her."²³ Believing this, he thought the militant spirit in Kentucky might prove a valuable asset for the United States in the war.

Whatever may have been Genet's grounds for writing Clark from Philadelphia that he had information and was sure that, "far from being disapproved here," their "great enterprise . . . would be received with pleasure" (meaning by the Federal authorities), no doubt the statement was believed by General Clark and his Kentucky associates. For a time they followed Genet's instructions to "proceed with confidence," and, notwithstanding the neutrality proclamation, they seemed to anticipate no serious interference from either the federal or state authorities. Michaux brought letters from prominent officials of the Federal Government, written at Genet's request, which seemed to indicate they personally approved the enterprise. One was a letter from United States Senator John Brown of Kentucky introducing Michaux to General Clark,²⁴ and another introducing him to Governor Shelby.²⁵ Michaux also brought still another, and apparently much more significant letter, from the Federal secretary of state, Mr. Jefferson, introducing him to Governor Shelby and saying it was written at the request of the minister of France, M. Genet. These several letters were no doubt shown by Michaux to Clark and made known to their leading Kentucky associates, and were well calculated to make them accept Genet's statement that the Federal authorities were not really opposed to their plan for aiding a French revolution in Louisiana.

When General Clark received Genet's letter, adopting his proposal, he replied expressing his regret that his own letter should

²³ Jefferson's *Writings*, VI:322. Hamilton said that "while he was for delaying the event, he did not doubt it would take place." (*What the Founders of the Union Thought*, A. B. Hart; *Encyclopedia U. S. History*, Harper, Vol. IX., "United States Territorial Expansion.")

²⁴ *American Historical Association Report*, 1896, p. 982. After describing Michaux as a botanist desiring "to examine the plants and natural productions" westward, Brown said: "Any assistance you

may be so good as to afford him in accomplishing his views, . . . will confer a favor." As Michaux's real "views" were directed to revolution in Louisiana, General Clark doubtless interpreted Brown's letter as favoring them. Michaux soon afterward wrote him: "Mr. Brown was very much informed of our affairs. He desire it could be effected." (Oct. 7, 1793, id. 1010.)

²⁵ Id. p. 982.

have been so long unanswered. Had he received an immediate answer, he said,

"I could have, before this time in all probability, Executed my first Project, that of getting compleat possession of the Mississippi, as the friends of the people boath in that Cuntry and this was prepared, and I had every information I wished for; but at present, the season being far advanced and I find an impossibility of keeping it a secret, I of course shall in some Instance deviate from my first plan and act agreeable to Circumstances. . . .

"I find that I shall have to be very circumspect in my conduct while in this cuntry and guard against doing any thing that would injure the U[nited] States, or giving offence to their Gov^t; but in a few days after seting sail we shall be out of their Government. I shall then be at liberty to give full scope to the authority of the Commission you did me the Honour to send."²⁶

Some eighteen days before Michaux delivered Genet's letter to Clark, Spanish agents at Philadelphia informed Mr. Jefferson of Genet's scheme to further revolution in Louisiana and demanded that the Federal Government prevent Kentuckians from taking part in the enterprise. Thereupon Jefferson communicated the information to Governor Shelby and called on him to stop them. The governor, however, was evidently in sympathy with the movement and declined to interfere with them. In his reply he said:

"If it is lawful for any one citizen of the state to leave it, it is equally so for any number of them to do it. It is also lawful for them to carry any quantity of provisions, arms and ammunitiion; and if the act is lawful in itself, there is nothing but the particular intention with which it is done that can possibly make it unlawful; but I know of no law which inflicts a punishment on intention only, or any criterion by which to decide what would be a sufficient evidence of that intention, even if it was a proper subject for legal censure. . . .

"I shall also feel but little inclination to take an active part in punishing or restraining any of my fellow-citizens, for a supposed intention only, to gratify the fears of the minister of a power who openly withholds from us an invaluable

²⁶ Id. p. 1008.

right, and who secretly instigates against us a most savage and cruel enemy."²⁷

What Governor Shelby says here about the Indians being instigated to make war upon us was indisputably true. In fact Spain was actually, though covertly, waging war upon the United States. Few people in the Northeast knew or cared about it; but the citizens of Kentucky and the western Carolinas both knew and cared very much, for they were the sufferers. They had time and again appealed in vain to the national government for sorely needed relief, and their failure to get that relief stirred them to support Clark's proposed movement to aid the Louisiana French and drive out the Spaniards.

But, while Spain was waging war upon us secretly, Great Britain was soon waging it openly and defiantly. While Clark's preparations were hanging fire, the lieutenant governor of Western Canada at Detroit, Colonel Simcoe, sent a British force many miles into the acknowledged territory of the United States, erected a fort at the rapids of the Maumee River, mounted his cannon, and defied ejection. That was actual war! Two Pottawatomie prisoners taken by Wayne testified:

"That the British sent them to invite the Pattawattamies to go to war against the United States; that they, the British, were then at Roche de Bout, on their way to war against the Americans; that the number of British troops then there were about four hundred, with two pieces of artillery, exclusive of the Detroit militia, and had made a fortification round Colonel McKee's house and stores at that place, in which they had deposited all their stores of ammunition, arms, clothing, and provision, with which they promised to supply all the hostile Indians in abundance, provided they would join, and go with them to war."²⁸

Shortly before this Lord Dorchester, the governor-general of Canada, held a great meeting with the northern Indians and unmistakably urged them to make war upon the Americans. Inspired by his speech and Simcoe's garrison, a great body of these savages (aided, said General Wayne, by a considerable number

²⁷ January 13, 1794. English's 400, citing *American State Papers, Conquest of the Northwest*, p. 821. V. 489.

²⁸ Perkins' *Western Annals*, p.

of armed British allies), made a determined attack on an American fort south of Simcoe's, but were finally beaten off.

At this time, although the northeastern Americans were much incensed by British outrages upon their seamen and commerce, they heeded little this actual warfare in the West. Naturally, however, it infuriated the Kentucky people who had to endure it. They could not understand why, when both Spain and Britain were actually making war upon them, they were not at liberty to attack Spain in Louisiana, and were forbidden to carry on an offensive against the British north of the Ohio. To them this one-sided "neutrality" with such enemies was a mere technical fiction which no government could rightly require them to observe.

The attitude of the Kentucky people with reference to their right to take part in the movement against the Spanish of Louisiana appears in the following letter from Col. Benjamin Logan to General Clark:

"Lincoln County, December the 31, 1793.

"Dr Sir

"If it appears to be the general opinion that the interest of this country requires that a spirited Enterprise be undertaken against the spanish posts on the Mississippi, in order to carry this business in to effect I have once more offered my feeble aid, knowing you are honoured with a commission from the Minister of france and is to be at the head of the business undertaken. this expedition appears to be something in the dark, and I expect will remain so untill the return of Mr [Michaux]. I have had the pleasure to be in company with Mr Leshases [La Chaise], who in my opinion has the appearance of a gentleman and enforms me he intends to see you in a few days. you will please to favour me with a line on this business. I have taken my leave of appointments in this state of the united states and do presume I am at liberty to go to any foreign country I pleas and intend so to do.

"I am with every sentiment of esteem

Your most obedient and humble servant,

"Benjamin Logan."²⁹

Another ardent Kentucky supporter of the anti-Spanish movement in Louisiana was Col. John Montgomery, who was engaged

²⁹ *American Historical Association Report*, 1896, p. 1026. (Dec. 31, 1793.)

gathering men for it on the Cumberland, and boats to take them across the Mississippi into Louisiana. He wrote Clark (October 26, 1793), expressing his "willingness to embark into the business with you provided I could be Honored with a Command under you." He said further:

"I have collected the sentiments of a number of the principal Inhabitants of this Country relative to the matter, and find that it will be in my power to raise Several Hundreds for your Service in a very short period of time. . . . I beg leave to mention to you that there are several old veteran officers residing in my part of the Country that are very willing to Serve in your Command under me provided you should think proper. . . . They may be exceedingly Serviceable in raising and Dessiplening troops."³⁰

The first aim was to win St. Louis, where the population was overwhelmingly French, and there call for additional men and means to form a force strong enough to descend the Mississippi and take New Orleans. To prevent aid coming by sea to the Spaniards there, Genet had promised to send two armed vessels to close the mouth of the river.

Undoubtedly a strong motive leading the Kentuckians to support the Genet-Clark project lay in their belief that its success would secure them the free use of the Mississippi. Their resolute demand for it at this time was powerfully voiced in an address issued December 13, 1793, by the Democratic Society of Kentucky "To the Inhabitants of the United States West of the Allegheny and Appalachian Mountains." It reviews their many appeals to the Continental Congress to assert and secure their navigation right; the "disgraceful" attempt to barter the right away; their expectation that the new Federal Government would possess the requisite energy and secure them that right; states that six years of waiting had yielded them nothing; and demands "speedy and effective exertions" by the Government to secure the right. The address then says:

"Let not History record, that the Inhabitants of this beautiful country lost a most invaluable right and half the benefits bestowed upon it, by a bountiful Providence, through your neglect and supineness. The present crisis is favourable. Spain is engaged in a war, which requires all her

³⁰ Id., p. 1018.

forces. If the present golden opportunity be suffered to pass without advantage, and she shall have concluded a peace with France, we must then contend against her undivided strength."³¹

The evident purpose of this address was to arouse the western people to support the movement to revolutionize Louisiana while France was ready to aid it, if the Federal Government would not take prompt measures to open the Mississippi.³²

At the same time the Society adopted and forwarded to the Federal Government the following strong and significant remonstrance:

"TO THE PRESIDENT AND CONGRESS OF THE UNITED STATES
OF AMERICA,

The Remonstrance of the Citizens West of the Allegheny
Mountains,

Respectfully sheweth,

That Your Remonstrants are entitled by Nature and by stipulation, to the undisturbed Navigation of the river Mississippi, and consider it a right inseparable from their prosperity. That in colonizing this distant and dangerous desert, they always contemplated the free enjoyment of this right, and considered it as an inseparable appendage to the country they had sought out, had fought for, and acquired.—That for a series of years during their early settlement, their petitions to government to secure this right, were answered by its alledged weakness, and your Remonstrants taught to expect, that the time was approaching fast, when both power and inclination would unite to establish it on the firmest grounds. In this anxious expectation they waited, and to the insolence of those who arrogated its exclusive exercise, they patiently submitted, till the government of America had so strengthened itself as to hold out an assurance of future protection to all its citizens, and of redress for all their wrongs.

³¹ *William & Mary College Quarterly Historical Magazine*, Second Series, Vol. II, p. 243. (1922).

³² Five prominent members of the society—William Murray, James Hughes, James Brown, James Moore, and Robert Todd—were directed to send copies of the address throughout the western country for signatures, with request to the sign-

ers to send them to their representatives in Congress. In doing so they said: "It is intended that a decision upon this subject should be obtained during the present Session of Congress, and to effect this, it is necessary that the Remonstrance should be presented as soon as possible." (Id. 239.)

“That protection has not been extended to us, we need only refer to our present situation, and that the situation has not been concealed from, or unknown to, Congress, we appeal to its archives. We have, without ceasing, deplored to you our degraded situation, and burdened you with our humble petitions and requests. But alas! we still experience, that the strong-nerved government of America, extends its arm of protection to all the branches of the union but to your Remonstrants; That it is competent to every end, but that single one by which alone it can benefit us—the protection of our Territorial rights. It is competent to exact obedience; but not to make that return which can be the only just and natural exchange for it.

“Long have your Remonstrants been anxiously in quest of the obstacles that have stood in your way, to the establishment of this our right; and as long has their pursuit been fruitless. Formal and tardy negotiations have no doubt been often projected, and have as often miscarried. It is true, some negotiations were once attempted, that were neither *formal* nor *tardy*, and gave an early shock to our encreasing population and to our peace of mind; but your Remonstrants are constrained to be of opinion that the neglect or local policy of American councils, has never produced one single real effort to procure this right. Could the Government of America be for ten years seriously in pursuit of the establishment of a grand Territorial right, which was arrogantly suspended, and return to that quarter of the union to whom it was all-important but an equivocal answer?—We think it high time that we should be thoroughly informed of the situation on which your negotiations, if any, have left this right; for apathy itself has grown hopeless from long disappointed expectation.

“Your Remonstrants yield not in patriotism to any of their fellow-citizens; but patriotism, like every other thing, has its bounds. We love those states from which we were all congregated, and no event (not even an attempt to barter away our best rights) shall alien our affections from the individual members who compose them: But attachments to governments cease to be natural, when they cease to be mutual. To be subjected to all the burthens, and enjoy none of the benefits arising from government, is what we will never submit to. Our situation compels us to speak plainly. If wretchedness and poverty await us, it is of no concern to us how they are produced. We are gratified in the prosperity of the Atlantic states, but would not speak the language of truth and sincerity, were we not to declare our unwillingness to make any sacrifices to it, when their importance and those

sacrifices result from our distresses. If the interest of Eastern America requires that we should be kept in poverty, it is unreasonable from such poverty to exact contributions. The first, if we cannot emerge from, we must learn to bear; but the latter, we never can be taught to submit to.

"From the General Government of America, therefore, your Remonstrants now ask protection in the free enjoyment of the navigation of the river Mississippi, which is withheld from them by the Spaniards. We demand it as a right which you have the power to invest us with, and which not to exert, is as great a breach of our rights, as to withhold. We declare that nothing can retribute us for the suspension or loss of this inestimable right. We declare it to be a right which must be obtained; and do also declare, that if the General Government will not procure it for us, we shall hold ourselves not answerable for any consequences that may result from our own procurement of it. The God of nature has given us both the right and means of acquiring and enjoying it; and to permit a sacrifice of it to any earthly consideration, would be a crime against ourselves, and against our posterity."³³

Having seen the situation in Kentucky concerning the proposed revolution in Louisiana, brief attention will now be called to the situation in Louisiana itself. The arrest and deportation of prominent French inhabitants there, so far from suppressing the spirit of revolution, intensified it. Not only in New Orleans and towns near it, but all the way up the Mississippi to St. Louis, and there, the French far outnumbered the Spaniards and almost to a man hoped to throw off the yoke of Spain. The Spanish troops, distributed in small garrisons over an enormous territory, were both few and ill-supplied. Most of the garrisons were so distant from the next ones that in case of attack support of one by another was impossible. St. Louis was over twelve hundred miles from New Orleans by river and the few intermediate settlements were far from one another—most of them hundreds of miles.

Referring to Clark's proposed movement, Governor Carondelet on January 1, 1794, wrote his superior:

³³ *William & Mary College Quarterly Historical Magazine*, II: pp. 244-6.

"If the project planned by the enemies is carried into effect, the whole of upper Louisiana from [St. Louis] as far as Nogales [Vicksburg], that is an extent of 380 leagues, will fall into the hands of the enemies in Spring, since the forces that can be collected for the defense of the forts of [St. Louis] and of New Madrid do not amount to 90 men of regular troops and 200 militia; and even these can be but little trusted. If at the same time we have to face an attack by the mouths of the Misisipi, as their papers announce, it is evident that all Louisiana will fall into their hands with the greatest rapidity and facility, since we cannot count on more than 800 . . . to man so many points, . . . it being certain that few of the American inhabitants will side against an army composed of their countrymen, and, as the French inhabitants will still less offer to take arms in our favor, both from their leaning toward France, and because all their estates situated on the upper part of the river will remain undefended when once Nogales and Natchez are lost, I shall have no other resource than an honorable surrender, or to perish in defense of the redoubt of San Carlos with my regular troops, as I shall not find myself sufficiently in force to defend the plaza. . . .

"I do not doubt their success, if helped by the inhabitants of upper Louisiana, and their Indians, who are well affected toward the French. . . . I have no further hope than in the faults the enemy may commit, and in accidents which may perhaps favor us."³⁴

But the fair prospect of a friendly French republic in Louisiana and free navigation of the Mississippi soon vanished. Genet, whether from want of money or his failure to appreciate the help offered him by the Kentucky volunteers, failed to support the enterprise. Without means, General Clark realized that it was doomed and soon gave it up. Some trifling sums were raised by Michaux from Kentucky sympathizers; and a partial list of a few of them at Lexington is given in the footnote, as showing some of the prominent men supporting the movement.³⁵

³⁴ *American Historical Association Report*, 1896, pp. 1027-8.

		James Trotter	} 50 lbs. of powder_ 10
		Andrew Holmes	
		Irwin and Bryon, 30 as	
		above	6
		Alexander and James Bar-	
		ker, in powder	7
		D. Caldwell and Comp ^{ie}	25
		^{1b} powder	5
³⁵	<i>Kentucky</i>		
	<i>Silver</i>		
G. Brackenridge	£ 6		
Robert Barr, pay in powder	9		

Early in 1794 the Federal Government took more active means to stop it. Under orders from the secretary of war, General Wayne, who was still enlisting and drilling troops for his long-delayed expedition against the northwestern Indians, wrote to Governor Shelby (January 16th) offering him cavalymen to stop the Kentuckians from going to Louisiana. Later Wayne was ordered to garrison old Massac on the right bank of the Ohio to stop them. By this time, however, little was being done to carry out the projected movement, which was soon afterward abandoned, and no conflict arose.

At length the Federal administration, outraged by the high-handed conduct of the flighty Genet, requested his recall by the French Republic. The request was willingly granted, for the Girondist government of France, which sent him to the United States, had been overthrown; and its successor, amidst the disorders of the Reign of Terror, took small interest in his American revolutionary project. On March 6, 1794, his successor, Fauchet, published an order forbidding even French residents in the United States to take part in it.

Twenty days later, March 24, 1794, the President issued a proclamation relating to it and "warning every person not authorized by the laws, against enlisting any citizen or citizens of the United States, or levying troops or assembling any persons within the United States for the purpose aforesaid, or proceeding in any manner to the execution thereof, as they will answer to the same at their peril."

General Clark received a copy of this proclamation on April 20th, and thereupon promptly sent notices to his volunteers to abandon all activities.

Until this time, it should be remembered, there had been no proclamation of neutrality as to Spain, nor any Federal statute

Seitz 30 ^{1b} id ^m _____	6	Thos Todd _____	1 - 10
William Hughes 50 ^{1b} id ^m _____	10	Fred Lauman ____20	4
R. Patterson 25 ^{1b} id ^m _____	5	George Anderson _12	2 - 8
and in silver _____	2 - 8	A. McSilvain ____25	5
James H. Stewart 20 id ^m _____	4	Rob ^t Holmes _____	" - 12
George Mansel _____	3	John Cock _____25	5
John Bradford _____	3		
Isaac Ware _____12½ id ^m	2 - 10		£108 - 8
Levi Todd _____	6	<i>(American Historical Association Report, 1896, p. 1073).</i>	
McGregor _____25	5		

requiring the observance of neutrality, or imposing any penalties for non-observance. On June 5, 1794, however, at the suggestion of the President, Congress passed an act doing this.

The Kentucky people leading or supporting the movement to rid Louisiana of Spanish rule were undoubtedly impelled by a complex of motives. Some were wholly unselfish and noble; others based on self-interest. Of the first kind were gratitude to France, enthusiasm for liberty, and sympathy for their French and American friends in Louisiana. Of the other was their dire need to free themselves from intolerable conditions forced on them by Spain and Great Britain, and from which they felt they could look for no relief from the Federal Government. Yet the movement has been recklessly described by some writers as if it were a filibustering expedition of freebooters, and by some as if it involved treason! There could hardly be a more gross misrepresentation, or greater injustice.

The so-called "Louisiana Expedition" really never reached the stage of an expedition, but was only a movement for a revolutionary rendezvous in Spanish Louisiana and an expedition there. Because it came to naught it has been lightly considered and grossly disparaged; but had it succeeded the men who carried it out would have occupied niches in America's Hall of Fame far higher than those of Houston and the valiant men who wrested Texas from Mexico. The Louisiana Purchase was made possible by a lucky combination of European affairs which no American could influence or foresee. Had those auspicious events not given Jefferson the wonderful opportunity for the purchase, Louisiana would in all human probability either have remained a French empire or become English. In either case, the failure of Kentucky to free it and establish a friendly republic there in 1794 would have been mourned in this country to this day.



(Filson Club Collection)

HUMPHREY MARSHALL
(1756-1841)

CHAPTER XXXIV

WAYNE'S CAMPAIGN: LAND-TITLE EXCITEMENT

Following upon St. Clair's defeat, it has been seen that in April, 1792, General Wayne was appointed to raise an army to suppress the hostile northwestern Indians. The appointment of "Mad Anthony" was made with much hesitation and reluctance, for Washington was greatly concerned about the western situation and doubted Wayne's fitness for the command. He wrote that he considered him "more active and enterprising than judicious and cautious—no economist it is feared; open to flattery, vain, easily imposed upon and liable to be drawn into scrapes;" but, he said, "Wayne has many good points as an officer, and it is to be hoped that time, reflection, good advice and above all the importance of the trust will correct his foibles, or cast a shade over them."¹ Few American military leaders, perhaps, were ever more restrained, warned, and advised by their superiors than Wayne. They earnestly hoped to make a peace with the Indians without a conflict and feared his rashness might prevent one. Furthermore, they were exceedingly anxious to avoid war with the British, who still held Detroit and our other lake posts and were almost openly instigating the Indians to war upon us; and here again it was feared Wayne's impetuous nature might make serious trouble.

The result, however, justified Washington's hope. Instead of rashness, for once Wayne was extraordinarily deliberate in preparing for his campaign, and most cautious in carrying it out. Meantime the Kentucky people were suffering from Indian depredations and disgusted by what they thought his dilatoriness. They thought their own military leaders and methods had proven far superior to Federal ones, and Kentucky recruits were not likely to serve willingly under a Federal general from Pennsyl-

¹ Winsor's *Western Movement*, p. 439.

vania. They preferred Scott or Wilkinson; and Wilkinson preferred himself. When Wayne was appointed, Senator Brown wrote from Philadelphia: "Wilkinson will be greatly mortified. . . . it is very different from his expectations."² From that time until Wayne's death Wilkinson was his enemy, plotting to supersede him.³ Indeed, throughout his whole career he schemed to supplant every superior officer next above him. Although disappointed over not being given chief command, he was made a brigadier general by Washington and as such served under his successful rival for the command.

In June, 1792, Wayne reached Pittsburgh and began his preparations. Meantime, abortive negotiations were attempted by the Federal Government to secure peace with the Indians, and also to induce the British to yield possession of Detroit and other lake posts within the conceded territory of the United States. Wayne was ordered to make no hostile demonstrations until the results of these negotiations were known; and it was long before the results were known.

His recruiting was at first slow, and most of the recruits were of a very unpromising kind. The fact was, the reports of St. Clair's men had spread throughout the country a dread of such savage warfare as they had encountered; and, excepting high-spirited officers, few were willing to enlist, and conscription had to be resorted to. At first there was much desertion, and to check this Wayne moved his camp in December to a site some twenty-two miles below Pittsburgh, and named it "Legionville," for he called his army the "Legion of the United States."

Here he remained until April, 1793, drilling his men, especially in marksmanship, for Washington had instructed him "to train them for the service they are meant for, and do not spare powder and lead, so the men may be made marksmen."⁴

Wayne had this very great advantage over all his predecessors in warring with the western Indians: he was the first American commander in the West, either during or after the Revolu-

² *Innes Papers*, XIX:12, Library of Congress.

³ See his letters to Innes, Aug. 20 and Oct. 3, 1793, Jan. 5 and Feb. 10, 1794, March 9, 1796 (Volume 23,

Innes Papers, Library of Congress); Wilkinson to Knox, Jan. 2, 1795 (*id.*).

⁴ *Western Annals*, pp. 377-8.

tion, who was supplied with good money to feed, clothe, equip and pay his troops. The new taxing power of the Federal Government had by this time made its credit so good that its money passed readily at par. Wayne, too, was the first western commander who was able to support his troops as long as necessary to drill them for their work. St. Clair, Harmar, and other previous commanders had to rely on hastily gathered, untrained and miserably equipped men who would receive little or no pay, and must depend on supplies taken by impressment from unwilling people who expected no real compensation for them. These facts seem to have been overlooked by some writers who laud Wayne's campaign without stint, but find only crass incompetency in his predecessors.

In April, 1793, he took his "Legion" down the Ohio and encamped at "Hobson's Choice," near Fort Washington (Cincinnati). He remained there until October, engaged in drilling and preparations pending the result of the peace treaty negotiations with the Indians. He endeavored to get a considerable force of mounted volunteers from Kentucky, but such was the reluctance there to serving under a Federal commander, or with Federal troops, that few joined him. He reported, however (on October 5, 1793), that excluding sick and those to be left in garrison, his force consisted of 2,600 regulars, 360 mounted volunteers and 36 guides and spies.

Efforts to get peace with the savages having failed, on October 7th he moved his Legion northward to the site now occupied by Greenville, Ohio, and proceeded to fortify it.

"Here, upon the 24th of Oct'r, he was joined by 1,000 mounted Kentucky volunteers under Gen. Scott, to whom he had written pressing requests to hasten forward with all the men he could muster. This request Scott hastened to comply with, and the Governor, upon the 28th of September had ordered, in addition, a draft of militia. The Kentucky troops, however, were soon dismissed again, until Spring; but their march had not been in vain, for they had seen enough of Wayne's army to give them confidence in it and in him; and upon their return home, spread that confidence abroad, so that the full number of volunteers, was easily procured in the spring."⁵

⁵ *Western Annals*, p. 399.

At Greenville Wayne remained, drilling his Legion and collecting recruits, until midsummer of the next year. During the winter of 1793-4 he sent an advance detachment to the field where St. Clair had been defeated two years earlier. There a fort was built, called "Fort Recovery," and a garrison established. Shortly afterward the British fortified themselves near the Maumee Rapids and encouraged the Indians to attack the American fort. On June 30th a great force of them did this, led by a Miami chief. Beaten off the first day, they renewed their attack the next, but again were foiled, and finally retired.

On July 26, 1794, General Wayne was joined at Greenville by General Scott with some sixteen hundred mounted men from Kentucky, and two days later the army moved against the enemy. On August 8th the junction of the Auglaize and Maumee was reached, and there Wayne built a fort which he called "Fort Defiance." On the 13th he sent an offer of peace to the Indians and moved toward them to receive their reply. This being evasive, his march against them was continued and on the 30th, on the left or north side of the Maumee, the decisive battle of "Fallen Timbers" ensued. General Wayne's report explains how it was conducted and also shows the part played by the Kentucky mounted volunteers, under Major-General Scott and Brigadier-Generals Todd and Barbee:

"The Legion [advanced] on the right, its flank covered by the Maumee; one brigade of mounted volunteers on the left, under Brigadier General Todd, and the other in the rear under Brigadier General Barbee. A select battalion of mounted volunteers moved in front of the Legion, commanded by Major Price, who was directed to keep sufficiently advanced, so as to give timely notice for the troops to form in case of action, it being yet undetermined whether the Indians would decide for peace or war.

"After advancing about five miles, Major Price's corps received so severe a fire from the enemy, who were secreted in the woods and high grass, as to compel them to retreat. The Legion was immediately formed in two lines, principally in a close thick wood, which extended for miles on our left, and for a very considerable distance in front; the ground being covered with old fallen timber, probably occasioned by a tornado, which rendered it impracticable for the cavalry to act with effect, and afforded the enemy the most favorable covert for their mode of warfare. The savages were formed

in three lines, within supporting distance of each other, and extending for near two miles at right angles with the river. I soon discovered, from the weight of the fire and extent of their lines, that the enemy were in full force in front, in possession of their favorite ground, and endeavoring to turn our left flank. I therefore gave orders for the second line to advance and support the first; and directed Major General Scott to gain and turn the right flank of the savages, with the whole of the mounted volunteers, by a circuitous route; at the same time I ordered the front line to advance and charge with trailed arms, and rouse the Indians from their coverts at the point of the bayonet, and when up to deliver a close and well directed fire on their backs, followed by a brisk charge, so as not to give them time to load again.

"I also ordered Captain . . . Campbell, who commanded the legionary cavalry, to turn the left flank of the enemy next the river, and which afforded a favorable field for that corps to act in. All these orders were obeyed with spirit and promptitude; but such was the impetuosity of the charge by the first line of infantry, that the Indians and Canadian militia and volunteers, were drove from all their coverts in so short a time, that although every possible exertion was used by the officers of the second line of the Legion, and by Generals Scott, Todd, and Barbee, of the mounted volunteers, to gain their proper positions, but part of each could get up in season to participate in the action; the enemy being drove, in the course of one hour, more than two miles, through the thick woods already mentioned, by less than one-half their numbers. From every account the enemy amounted to two thousand combatants. The troops actually engaged against them were short of nine hundred. This horde of savages, with their allies, abandoned themselves to flight, and dispersed with terror and dismay, leaving our victorious army in full and quiet possession of the field of battle, which terminated under the influence of the guns of the British garrison."⁶

The American loss reported was thirty-three killed, including five officers, and 100 wounded, of whom twenty-one were officers. This victory taught the Indians, and the British as well, that the United States was no longer unable to send a large drilled army into the field against them, or to support it there. It not only quieted the savages for years, but undoubtedly hastened Great Britain's agreement the next year to surrender the lake posts.

⁶ *Western Annals*, pp. 406-7.

While war was being waged in the Federal territory north of the Ohio, a remarkable political upheaval occurred in Kentucky. It grew out of a decision of the Court of Appeals in the suit of Kenton vs. McConnell, involving conflicting land claims.

It will be recalled that under the Virginia land act of 1779, a commission headed by Colonel Fleming was empowered to take proof and decide upon claims to lands in Kentucky, and to issue certificates of ownership to claimants entitled to them. The finality of the decisions of the commissioners was the main question involved in the suit.

On December 20, 1779, the plaintiff in the suit, Simon Kenton, received from the commissioners a certificate of title for 1,440 acres of land, based on his claim that he had *improved* it and had resided in the country since 1775. Two weeks later (January 3, 1780) the commissioners issued another certificate to Alexander McConnell, as heir of Francis McConnell, for 1,400 acres.⁷ This certificate was based on the claim that Francis McConnell had raised a crop of corn on this land in 1776. Surveys showed that the two surveys overlapped, and the Court of Appeals was called upon to decide which was superior. Eminent counsel appeared for the rival parties—John Breckinridge and James Hughes for Kenton, and Col. George Nicholas for McConnell. The case was one involving many difficult legal problems. The report of the arguments of counsel and opinions of the three judges fills a large part of Volume I of the *Kentucky Reports*, edited by one of the counsel in the case, Mr. Hughes.

The report shows much learning and ability on the part of opposing counsel, and great earnestness in pressing the claims of their clients. It also shows the great intricacy of the legal questions involved, and leaves the present day lawyer who takes the pains required to read it uncertain what the decision should have been. All three of the judges delivered lengthy opinions. By the vote of two of them—Chief Justice Muter and Judge Sebastian—the court held that the commissioners' certificate to Kenton was reviewable and had given him no title to the land in dispute. Judge Wallace held the contrary.

At once a great furor arose. Very many of the Kentucky

⁷ *Register Kentucky State Historical Society*, XXI:64.

people held titles like Kenton's and were indignant to learn that they were made worthless, or at least doubtful, by the court's decision. In the Legislature then in session probably nine-tenths of the members held such titles and naturally were provoked to find them discredited by the highest court in the state. During the clamor they were led into a most extraordinary and indefensible performance. Influenced by Humphrey Marshall, who was a member, the House of Representatives resolved to call Judges Muter and Sebastian before it to vindicate their decision, and sent them notices to appear. They promptly and properly replied that the House had no constitutional right to decide upon the propriety of a judicial decision of the Court of Appeals, or of the opinion of any judge thereof; but said they held themselves ready to answer any specific charges preferred against them by impeachment as provided in the Constitution.

Thereupon the following extraordinary resolution was offered:

“Whereas it is represented to the present general assembly, that two of the judges of the court of appeals, to wit: George Muter and Benjamin Sebastian, at the last term of said court, did give an opinion and decree, after solemn argument in the case of Kenton and McConnell, &c. that are contrary to the plain letter, intent and meaning of the act entitled ‘An act for adjusting and settling the titles of claimers to unpatented lands under the present and former government previous to the establishment of the commonwealth’s land office.’ Which said opinion and decree are subversive of the plainest principles of law and justice, and involve in their consequences, the distress and ruin of many of our innocent and meritorious citizens. And whereas the said George Muter and Benjamin Sebastian, who gave the opinion and decree aforesaid, must have done so either from undue influence or want of judgment; as said opinion and decree expressly contravene the decisions of the court of commissioners, who were authorized to adjust and settle titles under the said recited act; and also contradict a former decision of the late supreme court for the district of Kentucky, on a similar point—whence arises a well-grounded apprehension, that the said George Muter and Benjamin Sebastian are altogether destitute of that judgment, integrity and firmness, which are essential in every judge, but more especially in judges of the supreme court; and that there is no security

for property, so long as the said George Muter and Benjamin Sebastian continue as judges of the court of appeals.

"And whereas also, the constitution provides that for any reasonable cause which shall not be sufficient ground for impeachment, the governor may remove any judge of a superior or inferior court, on the address of two-thirds of each branch of the legislature—and the legislature deeming the before-recited case proper for their interposition and address:—Therefore,

"Resolved, That the said George Muter and Benjamin Sebastian ought respectively to be removed from their office of judge of the court of appeals; and that a committee from each branch of the legislature be appointed, and join to prepare an address to the governor for that purpose."⁸

Although plainly outrageous, such was the feeling in the House that this resolution failed only by the narrow margin of three votes. Thereupon, however, the Senate adopted another resolution hardly less scandalous, as follows:

"Resolved, That it is the opinion of this house that the judges, Muter and Sebastian, in the case of Kenton vs. McConnell, have given a decision contrary to the plain meaning and intent of the law; that their decision if established will contravene the purpose of the legislature of Virginia in establishing a board of commissioners to grant settlement rights to certain settlers, in the western country, and that it will do injustice to many of the first settlers in this country; which decision we believe, from what appears at this time, proceeded from a want of a proper knowledge of the law, or some impure motives, that appear to discover a want of integrity."⁹

Few things in the history of Kentucky legislatures were ever more discreditable or flagrantly unjust than these proceedings against the two judges. They were doubtless due in large measure to the self-interest of members who thought the decision would impair their own land titles. During the excitement party lines were forgotten and Marshall, although a rabid Federalist and one of the most generally disliked men in the state, was for the moment made popular with the legislators because of his leadership in the attack, and they elected him to the United

⁸ Marshall's *Kentucky*, II:163.

⁹ *Id.*, II:164.

States Senate. His course there soon brought upon him public execration.

Unable to withstand the popular clamor against his decision, Judge Muter, who sadly lacked resolution, on a rehearing of the suit reversed himself and sided with Judge Wallace, thus causing the court's final decision to be in Kenton's favor. This ended the excitement over land titles, and party lines were drawn as before—an overwhelming majority of the voters being Republicans.

CHAPTER XXXV

TREATIES WITH GREAT BRITAIN AND SPAIN

In 1794, while Wayne was suppressing the northwestern Indians and excitement was at fever heat in Kentucky over the land title quarrel, important events were occurring in the East. The Federalist financial schemes for the assumption, funding and payment of the public debts had brought the results Madison and Jefferson had predicted—a craze of speculation and a great financial panic. The excise law had brought on the “Whisky War,” and with it a large and costly army which made Republicans fear a dreaded “man on horseback” had arisen in the person of the dominant Alexander Hamilton, who typified for many of them the rule of the people by a moneyed aristocracy. To the indignation aroused by the refusal of the federalist Congress to keep treaty-faith with France, by the proclamation of neutrality, and by the federalist partiality for the British, was now added a long list of outrageous British impressments with brutal treatment of American seamen on the high seas and the confiscation of American ships and cargoes. These outrages infuriated nearly all Americans everywhere save ultra-Federalists; and even the Federalist Congress took steps to oppose the haughty power. Without reading the letters, addresses, pamphlets, and newspapers of that day it is impossible to realize how intense was the public feeling over the high-handed course the British government was pursuing.

“In the course of the war England had adopted, by successive Orders in Council, a policy ruinous to the commerce of neutral nations, and especially of the United States. In the admiralty courts of the various British West India islands hundreds of ships from New England were seized and condemned, for carrying French produce, or bearing cargoes of provisions chartered to French ports. The New England fishermen and shipowners were vociferous for war, and the democratic clubs denounced every British insult and

celebrated every French victory. On March 26, 1794, an embargo against British ships was proclaimed for thirty days, and then extended for thirty days longer. The day after the embargo was laid, Dayton, of New Jersey, moved in Congress to sequester all monies due to British creditors, and apply it towards indemnifying shipowners for losses incurred through the Orders in Council; and on April 21st the republicans moved a resolution to suspend all commercial intercourse with Great Britain till the western posts should be given up, and indemnity be paid for injuries to American commerce in violation of the rights of neutrals. . . . In this crisis Washington decided to send to England a special envoy. Hamilton was his first choice, but Hamilton had excited bitter enmities. On Hamilton's recommendation, John Jay, the Chief Justice, was chosen for the difficult mission, and he sailed for England in May, 1794."¹

When it became known that Jay had been appointed, Republicans looked for nothing more than another cold rebuff from the British ministry, or else a disgraceful subservience to British demands. Everywhere they were disgusted; the Kentucky people were furious, for Jay was the one northeastern man they most detested. They could never forget what they considered his infamous attempt to barter away their navigation right in order to secure for his own section the commercial treaty with Spain. Before Jay reached England a great meeting of citizens from many parts of the state on May 24, 1794, adopted resolutions declaring:

"That the injuries and insults done and offered by Great Britain to America call loudly for redress, and that we will to the utmost of our abilities support the General Government in any attempt to obtain redress.

"That the recent appointment of the *enemy* of the Western Country to negotiate with that nation, and the tame submission of the General Government when we alone were injured by Great Britain, make it highly necessary that we should at this time state our just demands to the President and Congress."²

Those demands were stated in strong terms in the *Kentucky Gazette*, which said:

¹ G. Pellew, *John Jay*, Chapter XI, quoted in Larned V:3307-8.

² *Kentucky Gazette*, May 31, 1794.

"The late appointment of John Jay as envoy extraordinary to the Court of London, brought so strongly to the recollection of the people of this country his former iniquitous attempt to barter away their most valuable right, that they could not refrain from openly testifying their abhorrence of the man whose appointment at this critical period of their affairs they consider as tragically ominous. Although they have not forgotten, nor even faintly remembered, his former act of treason against them, yet they hoped from the office he filled [chief justice of the United States] he was in as harmless a situation as he could be placed, and that no effort of power or policy could drag him forward so long as he held this office, and set him once more to chaffering with our rights."³

The *Gazette* then told of an assemblage of "respectable citizens" ordering "a likeness of this evil genius of Western America" which

"was ushered forth from a barber's shop amidst the shouts of the people, dressed in a courtly manner, and placed erect on the platform of the pillory. In his right hand he held uplifted, a rod of iron. In his left he held extended Swift's late speech in Congress on the subject of British depredations. . . . After exhibiting him in this condition for some time, he was ordered to be guillotined, which was soon dexterously executed, and a flame instantly applied to him, which, finding its way to a quantity of powder which was lodged in his body, produced such an explosion that after it there was scarcely to be found a particle of the disjecti membra Plenipo."⁴

This was only one of the many exhibitions of the public rage over Jay's appointment, nor were they confined to the West. Like treatment of his effigy occurred in Philadelphia and other places even before it was known what he had done. Never, perhaps, during this time of dissension had Republicans been more unanimous than they were in denouncing Jay's appointment to seek a treaty with Great Britain. But Hamilton and his leading Federalist followers, willing as they might have been for war with France, were determined to seek peace with Britain; and they still controlled both houses of Congress. Gen. Thomas Pinckney, of South Carolina, who was Jay's predecessor as American minis-

³ Id.

⁴ Id.

ter in London, had been endeavoring to bring about an equitable treaty with Grenville, and at one time seemed likely to succeed. The following anti-Federalist account of the negotiations and their results probably represents about what Kentucky Republicans learned and believed about them:

"The neutral nations of Europe had grown tired of the arrogant sea policy of the English, and steps were taken for the unification of neutrals in defense of neutral rights. Sweden and Denmark had ratified an Armed Neutrality Convention on March 27, 1794, agreeing to join their fleets for the protection of their peoples. Pinckney had been approached by the Swedish Minister in London with an invitation to the American Government to join. He had received the invitation with frank enthusiasm, and thought his country would agree.⁵ This was all known to Grenville, who was painfully impressed with the possibilities. He had put his spies to the task of opening diplomatic mail and keeping him informed of developments. Instructions had been sent to Hammond, the Minister at Philadelphia, to exert all his ingenuity to prevent the United States from joining the Scandinavian combination.⁶ The day that Grenville sat down with Jay, the former had been informed by Count Finckenstein, the Prussian Minister of Foreign Affairs, that the position of America was doubtful, and that Jefferson had left the Cabinet to go to Denmark to assist in the organization and consolidation of the neutrals.⁷ It was Grenville's cue to procrastinate on the treaty until he could ascertain to a certainty just what the United States contemplated in reference to the Armed Neutrality. Impatient over the delay, Jay submitted a complete draft of a treaty on September 20, 1794, which was, in many respects, an admirable document. When the treaty which was finally signed was submitted with the other papers to the American Government, the draft of September 20th was conspicuously absent—for the actual treaty was an almost complete surrender of the claims of the first draft, and its publication would have had a disastrous effect on Jay's reputation and on his party. . . .

"[The treaty] provided for the abandonment of the western posts after June 1, 1796, but there was to be no remuneration for stolen negro slaves and no provision for ending the impressment of American seamen. The principle that 'free ships make free goods' was surrendered, and the contraband list was extended. British claimants could appeal to

⁵ Bowers (270), citing Bemis' *Jay's Treaty*, 224.

⁶ Id. 270.

⁷ Id.

the Mixed Debts Commission without first exhausting their resources in American courts, while the American claimants had to exhaust the resources of the British courts before appealing to the Commission. The Mississippi was to be opened to British trade; and the West Indian trade, which Jay was specifically instructed to secure, was granted to American ships of seventy tons burden only, and then on condition that the West Indian trade should be wholly free to British vessels and that American vessels should not carry molasses, sugar, coffee, cocoa, and cotton to any ports in the world except their own. The East Indian trade was opened to Americans provided no further restrictions should be laid on British commerce. And Jay agreed to provisions—despite specific instructions to enter into no obligations incompatible with our treaty obligations to France—which amounted to an alliance with England against America's ally in the Revolution.”⁸

When the treaty reached Washington he deliberated long before submitting it to the Senate for approval. The Senate was overwhelmingly Federalist and the treaty a Federalist measure; yet it was so distasteful even to many Federalists that it was approved only after eighteen days' discussion and then barely by the required two-thirds majority. Thereupon, to avoid public condemnation and disorder, the Senate passed an extraordinary resolution discountenancing the publication of the treaty, although it had become the law of the land. Like Tarquin, who posted the laws of Rome so high that the citizens could not read them, the Senate ordered this treaty to be kept secret from the American people who were bound by it.

One highly honorable and courageous Senator, believing the Senate had no moral or legal right thus to suppress this law, resolved to defy its order of secrecy. This was Stevens Thomson Mason of Virginia.” He deliberately and openly ignored the Senate resolution and had the treaty published in the Philadelphia *Aurora*.¹⁰

⁸ Id. 270-1. “Bemis, 267, quotes a French scholar, R. Guyot, as describing the Jay Treaty as ‘almost equivalent to a treaty of alliance.’”

⁹ His grandfather was George Mason, and his father, Thomson Mason, whose beautiful character was undesignedly portrayed with

the touch of an artist in the charming *Journal of Nicholas Cresswell*.

¹⁰ Bowers 273. McElroy in his *Kentucky in the Nation's History*, p. 191, says: “The misguided zeal of a Southern Senator made public the text.”

The effect was electric. When the people learned of this attempt to keep them ignorant of the nature of the treaty, Jay and the senators voting for it were execrated everywhere; nowhere more than in Kentucky. For voting to approve the treaty, Humphrey Marshall was excoriated.

United States histories treating of the political conflicts of Federalists and Republicans have generally been written by men of Federalist leaning and from the Federalist standpoint. Naturally they over-laud Federalist policies and unfairly discredit Republican ones. Jay's treaty, despite its humiliating concessions, they nearly always represent as eminently wise, because necessary to avoid a ruinous war with Great Britain. For proof they point to the unprepared condition of this country for war, but they usually assume that Great Britain was prepared and quite ready to make another enemy of the United States. They may, of course, be right; but before assuming that the treaty was a wise one and opposition to it was folly, it may be well to consider the grounds upon which these writers base their opinion.

Plainly no one can say, with justifiable confidence, that Jay's refusal of Grenville's hard terms would have caused Great Britain to make war on the United States. She was taking what she wanted without war. It is equally impossible to say what the result of such a war would have been. In truth, although Grenville was loath to give up the British policy of seizing the ships, cargoes and seamen of America and other neutral nations, he evidently *feared* making another enemy of the United States. And he had cause to fear. When his negotiations with Jay were going on, the European coalition Great Britain had formed against France had broken down. "France in 1794 regained all she had lost, expelled the Austrians from Belgium and the Stadholder from Holland, set up her boundary on the Rhine, and pushed her armies into Germany."¹¹ She had overrun northern Spain, which in 1795 abandoned Great Britain and joined France as an ally; and that year Napoleon became the dominating power in France and was soon crushing the armies of the new coalition which Great Britain formed that year with Austria and Russia.

¹¹ C. K. Adams in *Universal Cyclopedia*, VIII:351, "Napoleon."

Even without America as an additional enemy, Britain had all she could do to support her allies and carry on the war with her European enemies. Her great advantage was her sea-power, which enabled her to protect her commerce and help finance her allies. A very large part of her trade, however, was with America. It not only yielded her great profits but furnished her great quantities of naval supplies, timber, food stuffs and other essentials; and this trade she would have lost had she entered into a war with the United States.

Grenville, we may be sure, was aware of the ruinous expense his country would have been compelled to bear in carrying on a war thousands of miles overseas in America, and must have known the fruitless nature of any victories she might gain there. Great Britain then had a population of only about ten millions; the United States had over four millions. The Federal Government, unlike the old Confederation, was solvent, and had the all-important powers to conscript troops and impress supplies for them. Three months before Jay signed his treaty, Wayne had crushed the confederacy of northwestern Indians at the Battle of Fallen Timbers. Almost at the same time Alexander Hamilton had an army of fifteen thousand men to march against the Pennsylvania insurrectionists in the "Whisky War."

Grenville could not have been ignorant of these facts; for Hammond, the British minister at Philadelphia, was constantly posting him about American affairs. Nor was either of them, or the British admiralty, unaware of American shipbuilding skill and resources, or of the skill and fighting qualities of American seamen, for Britain's navy and commerce had too often suffered from our privateers. Paul Jones indeed was dead, but Joshua Barney and other brilliant sea-fighters lived. The *Constitution*, *Constellation* and *United States* had just been launched, and it was quite practicable to add many more ships and smaller craft to prey on British commerce or defend American ports.

But although Grenville knew of all these difficulties confronting his country, in the event America was brought into the war against her, he had ample reason to believe the anti-French and pro-British Federalist majority in the United States Senate would not consent to war against Great Britain. Ten days before Jay submitted his own draft of a treaty to Grenville, says Bowers,

"[Hammond] had been informed by Hamilton, 'with every demonstration of sincerity', that under no circumstances would America join the Armed Neutrality. . . . Thus, through the amazing indiscretion of Hamilton, Jay was deprived of his high card at the critical moment of the negotiations. Hamilton was standing behind Jay, to be sure, but he was holding a mirror, however unconsciously, which reflected the American negotiator's cards to the enlightenment of the suave and smiling Grenville. From that moment Grenville stiffened his opposition to Jay's demands, and thenceforth the latter was in a continuous retreat."¹²

All wars are of course destructive and expensive, and there can be no doubt that a war with Great Britain would have cost the United States much in "blood and treasure." Because no one could foresee its results, Washington's policy of avoiding war was probably wise, although it entailed many years of British outrages on American commerce and seamen; but there seems to be little ground for the Federalist assertions that Jay's treaty was necessary to prevent such a war, or that it did prevent war, or that the war would have been ruinous for this country, rather than Great Britain, or that because of all this the approval of the treaty was of course wise, and opposition to it unreasonable.

Although the indignation of the Kentuckians over Jay's appointment to treat with Great Britain is readily understood, many writers have thought strange their bitter opposition to his treaty when it provided for Great Britain's surrender of the northern posts. This may in some measure be explained, however, by two considerations: first, Wayne's successful campaign had shown the Federal Government's power and disposition to protect them from the Indians, and the Indian wars were virtually ended; and second, Jay's treaty with Great Britain lessened hope of an offensive with France to drive the Spaniards from Louisiana and open the Mississippi, which was always esteemed of paramount importance by the western people.

Besides its provision for the surrender of the northern posts, the treaty probably conferred another benefit upon the western people of which Jay did not dream. When news of the treaty reached Spain, it is said to have been understood by the Spanish

¹² Bowers, p. 270.

ministry to point to an alliance of the United States with Great Britain; and that aroused fear that such an alliance would soon end Spanish dominion in Louisiana and perhaps in the West Indies and Mexico. At this time Spain was about to break with Great Britain; in August, 1795, she formed an alliance against her with France. Although Jay's treaty provided for no alliance with Britain, it was natural that both France and Spain should apprehend one. At all events Godoy, the Spanish Minister of Foreign Affairs, became conciliatory toward Mr. Pinckney, the American minister, and on October 20th, 1795, agreed with him upon a treaty whereby the southern boundary of the United States was declared to be the 31st degree of latitude, and Americans were assured the free navigation of the Mississippi with a place of deposit for vessels and cargoes. On various pretexts, however, Spain shamelessly evaded performance of these treaty agreements and kept the river closed.

It was about this time, and before he learned of the treaty, that Carondelet, fearing an American invasion, made an unsuccessful overture to several leading Kentuckians to gain their aid in causing Kentucky to leave the Union and form a commercial treaty with Spain. Two years later he made a second and equally futile overture to two of the same men. On both occasions his intermediary was the weak Judge Sebastian, who some years before had been bribed by Governor Miro, with a yearly pension, to spy on Wilkinson.

Carondelet's first overture was made to William Murray, Judge Innes and Colonel George Nicholas; the second to the last two named. The circumstances under which the overtures were made, the manner in which they were received, and the controversy to which they long afterwards gave rise, have been explained at length by the present writer in the introduction to *Littell's Political Transactions*.

CHAPTER XXXVI

RESOLUTIONS OF 1798: LOUISIANA PURCHASE

During the second year of President Adams' administration, party politics became extremely heated throughout the country. Indignation over Jay's treaty and British outrages at sea was by no means allayed; enthusiasm for France continued; and the Federalists, favoring Great Britain in the war, had been broken into factions and were rapidly losing public favor. Then a great revulsion came. The publication of the famous "X Y Z" letters, disclosing Talleyrand's infamous attempt to bribe the three American envoys at Paris—Gerry, Marshall and Pinckney—aroused the wrath of the American people, and turned public sentiment strongly against France and the Republicans.

"Then, with tardy decision, the Republicans yielded to the necessity of action, and the Federal party took the lead. War was not formally proclaimed, but treaties with France were declared to be no longer binding. An army was ordered to be created, with Washington as Lieutenant-general and Hamilton as second in command; and the President was authorized to appoint a Secretary of the Navy and to build twelve new ships-of-war. Before these were ready, naval hostilities had actually begun; and Commodore Truxton, in the U. S. frigate *Constellation*, captured a French frigate in West Indian waters (Feb. 9, 1799), and afterwards silenced another, which however escaped. Great was the excitement over these early naval successes of the young nation. Merchant-ships were authorized to arm themselves, and some 300 acted upon this authority. . . . The result of it all was that France yielded. Talleyrand, the very minister who had dictated the insults, now disavowed them, and pledged his government to receive any minister the United States might send."¹

¹ Higginson's *Larger History of the United States*, quoted in Larned V:3315.

War with France was avoided, but the federalist leaders, intoxicated by seeing the demoralization of their opponents, proceeded to throw away their advantage and ruin their own party. Thinking to eradicate republican opposition, they moved Congress to pass the odious "Alien and Sedition Laws." The Alien Act was intended to intimidate French, Irish and other alien Republicans and drive them from the country; the Sedition Act to muzzle and punish Republican editors and others who dared to criticize or oppose those in power in such manner as to come within the denunciations of the extraordinary law.

Few competent judges, perhaps, now doubt that some of the provisions of these laws were unconstitutional. The motive leading to their passage was plain. The debates over them in Congress were intensely bitter. The opposition they met there and the consequences predicted from their passage may be gathered from the speech of Edward Livingston as quoted and paraphrased by Bower:

"'If we are ready to violate the Constitution,' he said, 'will the people submit to our unauthorized acts? Sir, they ought not to submit; they would deserve the chains that these measures are forging for them.' The effect of such a measure? 'The country will swarm with informers, spies, delators, and all the odious reptile tribe that breed in the sunshine of despotic power. . . . The hours of the most unsuspected confidence, the intimacies of friendship, or the recesses of domestic retirement, afford no security. The companion whom you must trust, the friend in whom you must confide, the domestic who waits in your chamber, are all tempted to betray your imprudent or unguarded follies; to misrepresent your words; to convey them, distorted by calumny, to the secret tribunal where jealousy presides—where fear officiates as accuser, and suspicion is the only evidence that is heard. . . . Do not let us be told that we are to excite a fervor against a foreign aggression to establish a tyranny at home; that like the arch traitor we cry "Hail Columbia" at the moment we are betraying her to destruction; that we sing, "Happy Land," when we are plunging it in ruin and disgrace; and that we are absurd enough to call ourselves free and enlightened while we advocate principles that would have disgraced the age of Gothic barbarity.'"²

² *Jefferson and Hamilton*; p. 378.

Both the obnoxious laws were passed, however, by scant majorities and approved by President Adams. Then came a reign of terror. The brutal extremes to which Federalist judges and juries carried their persecutions aroused protests from right-minded people, Federalists as well as Republicans, throughout the land. Two formal protests, which were destined to become famous, were the "Kentucky and Virginia Resolutions of 1798," which were adopted by the legislatures of those two states and were long regarded as a great charter of American Democracy.

Perhaps no other resolutions of an American legislative body have ever been so fully, or more ably or bitterly, debated. Those passed by the Kentucky legislature will therefore be given here with no further comment than to explain that they did not, as often said, assert the right of states or people to nullify a law of the United States. In substance they declared that the Federal Government had no lawful powers except those delegated to it by the Constitution; that all other powers were expressly "reserved to the states or the people"; that any act of Congress, not within the powers delegated to it by the Constitution, was null and void; and that therefore a state and the people thereof could lawfully treat it as a nullity; and could lawfully resist its execution.

The resolutions were directed only against unconstitutional *acts* of Congress and attempts to enforce them. The Kentucky leaders who advocated the resolutions, and those who adopted them, disclaimed any right of states or people to nullify or resist any *law* of the United States. An act of Congress may or may not be a law. If constitutional it is; if unconstitutional it is not, but is null and void and the Federal Government has no lawful power to enforce it. Time and again the United States Supreme Court has so declared. The Kentucky Resolutions likewise so declare. Whatever else may be said of them, it is an error to represent them as denying the authority of any *law* of the United States, or as claiming the right to *nullify* or resist one. "Nullifiers," when applied to them, is a misnomer well calculated to mislead.

Whether states and their people may determine that an act of Congress is a plain usurpation of rights expressly reserved to them by the Constitution, or the Federal Government is made sole judge of the extent of the powers delegated to it by the Constitu-

tion, is a question about the merits of which volumes have been written and no opinion will be here expressed. It is well, however, to understand the attitude of the men who championed the Kentucky Resolutions. They believed that the Federal Government had no such unlimited power; that if, for example, when the Constitution provides that "Congress shall make no law respecting an establishment of religion," it should notwithstanding pass an act to do so, the states and their people would be warranted in judging and resisting the act as an arbitrary invasion of their expressly reserved rights.

It is often said that this question was decided and forever settled by the "arbitrament of arms" in the Civil war; but wars do not decide rights. They test the relative strength of battling sides; they often cause rights to be relinquished; but they never decide what is the right. So long as the present Federal Constitution exists, flagrant future usurpations by Congress of vital rights clearly reserved to the states or people may reawaken the claims set forth by the Kentucky Resolutions of 1798.

Here follow the resolutions in full:

"KENTUCKY LEGISLATURE

"In the House of Representatives,
"November 10th, 1798.

"The *House* according to the standing Order of the Day, resolved itself into a Committee of the Whole on the state of the Commonwealth,

Mr. Caldwell in the Chair,

"And after sometime spent therein the Speaker resumed the Chair, and Mr. Caldwell reported, that the Committee had according to order had under consideration the Governor's Address, and had come to the following *Resolutions* thereupon, which he delivered in at the Clerk's table, where they were twice read and agreed to by the House.

"I. *Resolved*, that the several states composing the United States of America, are not united on the principle of unlimited submission to their General Government; but that by compact under the style and title of a Constitution for the United States and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving

each state to itself, the residuary mass of right to their own self Government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force; That to this compact each state acceded as a state, and is an integral party, its co-states forming as to itself, the other party; That the Government created by this compact was not made the exclusive or final *judge* of the extent of the powers delegated to itself; since that would have made its discretion, and not the constitution, the measure of its powers; but that as in all other cases of compact among parties having no common Judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

"II. Resolved, that the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the High Seas, and offenses against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the Constitution having also declared, 'that the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people,' therefore also the same act of Congress passed on the 14th day of July, 1798, and entitled 'An act in addition to the act entitled an act for the punishment of certain crimes against the United States'; as also the act passed by them on the 27th day of June, 1798, entitled 'An act to punish frauds committed on the Bank of the United States' (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the constitution) are altogether void and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right appertains solely and exclusively to the respective states, each within its own Territory.

"III. Resolved, that it is true as a general principle, and is also expressly declared by one of the amendments to the Constitution that 'the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people;' and that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the states, all lawful powers respecting the same did of right remain, and were reserved to the states, or to the people: That thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and

of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use, should be tolerated rather than the use be destroyed; and thus also they guarded against all abridgement by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this state by a Law passed on the general demand of its Citizens, had already protected them from all human restraint or interference: And that in addition to the general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution which expressly declares, that 'Congress shall make no law respecting an Establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press,' thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehoods, and defamation, equally with heresy and false religion, are withheld from the cognizance of federal tribunals. That therefore the act of the Congress of the United States passed on the 14th day of July, 1798, entitled 'An act in addition to the act for the punishment of certain crimes against the United States', which does abridge the freedom of the press, is not law, but is altogether void and of no effect.

"IV. Resolved, that alien friends are under the jurisdiction and protection of the laws of the state wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual states distinct from their power over citizens; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that 'the powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved to the states respectively or to the people,' the act of the Congress of the United States passed on the 22d day of June, 1798, entitled 'An act concerning aliens', which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

"V. Resolved, that in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inserted in the Constitution from abundant caution has declared, 'that the *migration* or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808.'

That this Commonwealth does admit the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated is equivalent to a prohibition of their migration, and is therefore contrary to the said provision of the Constitution, and void.

“VI. Resolved, that the imprisonment of a person under the protection of the Laws of this Commonwealth on his failure to obey the simple *order* of the President to depart out of the United States, as is undertaken by the said act entitled ‘An act concerning Aliens,’ is contrary to the Constitution, one amendment to which has provided, that ‘no person shall be deprived of liberty without due process of law,’ and that another having provided ‘that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence,’ the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the Law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favour, without defence, without counsel, is contrary to these provisions also of the Constitution, is therefore not law but utterly void and of no force.

“That transferring the power of judging any person who is under the protection of the laws, from the Courts to the President of the United States, as is undertaken by the same act concerning Aliens, is against the articles of the Constitution which provides, that ‘the judicial power of the United States shall be vested in Courts, the Judges of which shall hold their offices during good behaviour,’ and that the said act is void for that reason also; and it is further to be noted, that this transfer of Judiciary power is to that magistrate of the General Government who already possess all the Executive, and a qualified negative in all the Legislative powers.

“VII. Resolved, that the construction applied by the General Government (as is evinced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress a power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence, and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested

by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution—That words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken, as to destroy the whole residue of the instrument: That the proceedings of the General Government under colour of these articles, will be a fit and necessary subject for revisal and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

“VIII. Resolved, that the preceding Resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth, who are hereby enjoined to present the same to their respective Houses, and to use their best endeavours to procure at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

“IX. Resolved lastly, that the Governor of this Commonwealth be, and is hereby authorized and requested to communicate the preceding Resolutions to the Legislatures of the several States, to assure them that this Commonwealth considers Union for specified National purposes, and particularly for those specified in their late Federal Compact, to be friendly to the peace, happiness, and prosperity of all the states; that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the states all the powers of self government, and transfer them to a general and consolidated Government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these states; And that therefore, this Commonwealth is determined, as it doubts not its Co-states are, tamely to submit to undelegated & consequently unlimited powers in no man or body of men on earth: that if the acts before specified should stand, these conclusions would flow from them; that the General Government may place any act they think proper on the list of crimes & punish it themselves, whether enumerated or not enumerated by the Constitution as cognizable by them; that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose *suspicious* may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of the

inhabitants of these states, being by this precedent reduced as outlaws to the absolute dominion of one man and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the power of a majority of Congress, to protect from a like exportation or other more grievous punishment the minority of the same body, the Legislatures, Judges, Governors, & Counsellors of the states, nor their other peaceable inhabitants who may venture to reclaim the constitutional rights & liberties of the states & people, or who for other causes, good or bad, may be obnoxious to the views or marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests public or personal; that the friendless alien has indeed been selected as the safest subject of a first experiment: but the citizen will soon follow, or rather has already followed; for, already has a Sedition Act marked him as its prey: that these and successive acts of the same character, unless arrested on the threshold, may tend to drive these states into revolution and blood, and will furnish new calumnies against Republican Governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron: that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is every where the parent of despotism: free government is founded in jealousy and not in confidence; it is jealousy, and not confidence which prescribes limited Constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the Alien and Sedition Acts, and say if the Constitution has not been wise in fixing limits to the Government it created, and whether we should be wise in destroying those limits? Let him say what the Government is if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers, to whom the mild spirit of our Country and its laws had pledged hospitality and protection: that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms & substances of law and justice. In questions of power then let no more be heard of confidence in man, but bind him down from mischief by the chain of the Constitution. That this Commonwealth does therefore call on its Co-states for an expression of their sentiments on the acts concerning Aliens, and for the punishment of certain

crimes herein before specified, plainly declaring whether these acts are or are not authorised by the Federal Compact? And it doubts not that their sense will be so announced as to prove their attachment unaltered to limited Government, whether general or particular, and that the rights and liberties of their Co-states will be exposed to no dangers by remaining embarked on a common bottom with their own: That they will concur with this Commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration, that the Compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise over these states of all powers whatsoever: That they will view this as seizing the rights of the states and consolidating them in the hands of the General Government with a power assumed to bind the states (not merely in cases made federal) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: That this would be to surrender the form of Government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the Co-states recurring to their natural right in cases not made federal, will concur in declaring these acts void and of no force, and will each unite with this Commonwealth requesting their repeal at the next session of Congress."³

Before the excitement arose over the Alien and Sedition acts, the Kentucky people had found cause for wishing several important changes in their state constitution. Its provisions concerning the choice of governors and senators by electors caused confusion and were thought too little subject to popular control. The original jurisdiction of the Court of Appeals in suits involving land titles also proved unsatisfactory. It compelled many litigants and witnesses to make long journeys to the state capital to attend trials, and the expense and loss of time were onerous.

³ The resolutions were attested as follows:

"EDMUND BULLOCK, S. H. R.
JOHN CAMPBELL, S. S. P. T.
Passed the House of Representatives, Nov. 10th, 1798.
Attest,
THOMAS TODD, C. H. R.
In SENATE, November 13th, 1798,
unanimously concurred in,
Attest,

B. THRUSTON, Clk. Sen.
Approved November 16th, 1798.
JAMES GARRARD, G. K.
BY THE GOVERNOR,
HARRY TOULMIN,
Secretary of State."
From facsimile of original text
printed by order of the Legislature,
reproduced in McElroy's *Kentucky
in the Nation's History*, p. 258.

Frequent postponements and absence of witnesses added to the burden, and furthermore, the advantages of "juries from the vicinage" were lost.

The existing state constitution could only be amended or abolished by a convention called for by a majority of qualified voters, or by a two-thirds vote of both branches of the Legislature. In 1797, and again in 1798, large majorities of the voting citizens favored such a convention, but not a majority of all the qualified voters. Thereupon the Legislature, during its session of 1798-99, called the convention, which on August 17, 1799, adopted the second state constitution. It made the governor and senators elective directly by the people and gave the Court of Appeals only appellate jurisdiction.

The next great event deeply affecting Kentucky's future was the Louisiana Purchase, which merged the Revolutionary West in a greater West. It extended the United States to the Rocky Mountains and the Gulf of Mexico, and ended the long struggle of the western people for the navigation of the Mississippi. Says one of the ablest and most judicious of American historians, Professor Frederick Turner: "It was the decisive step of the United States on an independent career as a world-power, free from entangling alliances."⁴ As the epochal purchase has been elaborately treated in many histories of the United States, no attempt need be made here to set forth the conditions and negotiations which led to it. It is especially germane to Kentucky's history, however, to say that the Louisiana Purchase would, humanly speaking, have been impossible had not the Revolutionary West been won for us; and that region was won mainly by the desperate efforts and patriotic sacrifices of the people of Kentucky. Indeed, the Purchase itself was largely due to the insistent demands they and other westerners made on the Federal Government to open the Mississippi. The same writer says:

"It was the Ohio Valley which forced the nation away from a narrow colonial attitude into its career as a nation among other nations with an adequate physical basis for future growth."⁵

⁴ *The Frontier in American History*, p. 189.

⁵ *Id.*, p. 167.

Jefferson is greatly and justly praised for the purchase of Louisiana, but his earlier and far more fundamental services in the winning of our first great West, from the Alleghenies to the Mississippi and from the Great Lakes to Florida, have been strangely overlooked. He was the one broad-visioned American statesman who, appreciating the future national importance of westward expansion, did most to further it. At every early stage of our westward-moving frontier, which Professor Muzzey rightly declares "the most constant and potent force in our history," Jefferson is found to be the far-seeing and ardent protagonist of western advance. Hardly had he left Congress, after writing the Declaration of Independence, when he was found championing and carrying through the Virginia Assembly act making Kentucky a county. It was that act which committed Virginia to assert jurisdiction over Kentucky and to defend it, not only against British and Indians, but against the powerful land companies and the northern majority of states in Congress. The creation of the County of Kentucky was in truth the genesis of the western expansion and greatness of the United States; for without it Kentucky would almost inevitably have been lost, and with it the whole region west of the Alleghenies.

It was Jefferson who, with Mason and Wythe, supported Clark's proposal to capture the British posts north of the Ohio; and, if there is anything certain in history, it is certain that without those captures the Revolutionary West would have been lost and almost certainly have become the seat of a powerful British empire, which in due time would have absorbed Louisiana and crushed the thirteen Atlantic states composing the infant Republic.

Again, it was Jefferson who, when governor of Virginia, ardently approved and supported Clark's expedition against Detroit, prophetically writing him:

"Can that post be reduced, we shall be quiet in future on our frontier, and thereby immense treasures of blood and money be saved; we shall be at leisure to turn our whole force to the rescue of our Eastern Country from subjugation; we shall divert through our own country a branch of commerce which the European States have thought worthy of the most important struggles and sacrifices; and, in the event of a peace on terms which have been contemplated by some powers

we shall form to the American Union a barrier against the dangerous extension of the British Provinces of Canada, and add to the empire of Liberty, an extensive and fertile country."⁶

Again, just after the Revolution ended in 1783, Jefferson, ever alert to extend the "empire of Liberty," wrote a notable letter to Clark proposing that he lead an expedition across the great unexplored and almost unclaimed northwestern country to the Pacific.⁷ Then, as all know, within a year after the Purchase, he sent Lewis and General Clark's brother on the famous Lewis and Clark Expedition to the Pacific. Finally, he encouraged the establishment by John Jacob Astor of Astoria on the Columbia River—the first American settlement on the Pacific Coast, which later gave the United States a basis for claiming the vast Oregon region against Great Britain. Certainly Jefferson was, early and late, the great champion of western expansion.

With the purchase of Louisiana the historic field designed to be covered in this volume closes. The Kentucky people were at last relieved of their Mississippi navigation troubles. They were free to prosper; and they prospered amazingly. The trade with New Orleans grew by leaps and bounds. The population which in 1790 was 73,677, in 1800 had become 220,955, and ten years later 406,511. Laws suited to a more settled community were adopted. Roads, churches, fine farms, and commodious houses multiplied. Manufactories were started and flourished. So did education. Transylvania University became one of the most advanced educational institutions in America and some of its professors were men of eminent abilities and reputation. Lexington was known as the "Athens of the West," and the title was not a meaningless one.

The reader familiar with previous histories of early Kentucky has now seen that, as stated in the preface, the present volume differs from others not only in what it contains, but in what it omits. Comparatively little space has been given to matters of merely local or personal concern, or to subjects that have already been amply treated in previous histories. Detailed discussion

⁶ *Draper MSS.*, 51 J. 13.

Public Services, p. 238. Original,

⁷ For Clark's long-lost reply see *Author's MSS.*
George Rogers Clark: His Life and

has been directed to set forth economic influences and the great diplomatic, political and military conflicts, upon the issues of which depended Kentucky's existence as a part of the United States and her unique importance in the nation's history.

APPENDIX A

HISTORIANS AND KENTUCKY HISTORY

In the preceding pages an attempt has been made to describe only such political conflicts as were of basic importance in Kentucky's history, and to explain the situation and attitude of the Kentucky people regarding them. One controversy, however, although it has bulked large in the State's histories, has hardly been noticed—namely, the angry controversy over the so-called Spanish Conspiracy. The reason for this omission has been that the controversy was a bitter personal one, a detailed discussion of which in the body of this book would have required much space and would have broken and confused the narrative of far more important events.

Yet the Spanish Conspiracy controversy has led to more distortion of Kentucky's early history than all other causes, and for that reason needs to be more fully explained. This has been done at considerable length, however, in the author's introduction to the Filson Club's recent reprint of Littell's *Political Transactions*. It was at first intended to incorporate most of the introduction in this appendix, but this has not been done, although some references may have been made to it in the preceding pages. These references should be read as applying to the introduction to Littell's work.

The history of the Spanish Conspiracy controversy, as it appears in print, is pretty much what it was made by Humphrey Marshall and several of his kinsmen copyists. His very misleading method of treating it in his *History of Kentucky* has been discussed in the introduction to the *Political Transactions*. For generations his was the only generally read history of the State; and for lack of other information, many later writers have accepted and repeated his assertions. They seem to have been unconscious of the fact that aside from non-controversial subjects his book was a rancorous polemic, largely made up from his articles in his

newspaper, the *Western World*, parts of which he transferred bodily into his history.

The next history of Kentucky was issued by Lewis Collins and later editions by his son, Richard H. Collins. It is now far more commonly consulted than any other, for it contains much that is valuable and not easily found elsewhere; but it is a veritable hodge-podge of facts and fictions, and very often misleading. In their preface they explain that a very large part of their history was made up of narratives by old men, survivors of the times of which they tell; and those narratives are often little more than fireside yarns.¹ Both father and son were industrious collectors, but themselves state that the only part of their book which attempts to give a connected history of the state—called an “Outline History”—was not written by them, but for them by John A. McClung, who was a cousin of Humphrey Marshall. He closely followed Marshall in setting forth the alleged Spanish Conspiracy, and thus did much to circulate his kinsman’s charges against nearly all the state’s leading and most respected men of his time.

Another Marshall, Thomas Marshall Green, does likewise at great length and with much violence in his book entitled *The Spanish Conspiracy*. The characteristics of that work have also been explained in the introduction to Littell’s *Political Transactions*.

Another kinsman of Humphrey Marshall contributing to make up printed history for Kentucky was A. C. Quisenberry. His *The Life and Times of Hon. Humphrey Marshall* repeats Marshall’s charges, lauds him without stint, and fairly bristles with errors. It has been rarely cited as an authority, but the case is far otherwise with respect to the works of Marshall, McClung and Green.

A feature of Marshall’s polemical history, not mentioned in the introduction to Littell’s *Political Transactions* or elsewhere, illustrates his covert way of disparaging one toward whom he was hostile. This is what he says, and what he fails to say, of General Clark. When his history was published, Clark was old, paralyzed, broken in fortune by his outlays and endorsements to feed, clothe and equip his troops during the Revolution. He had never taken part in controversial politics, but he was a Republican and a

¹ Collins’ *History of Kentucky*, II: IV.

friend of Jefferson and other men whom Marshall hated. Furthermore, he had sued Marshall to compel him to perform his contract to pay for a large body of land, and had employed Judge Innes, the historian's enemy, to conduct the suit.

Marshall made no open attack upon General Clark. On the contrary, an unsuspecting reader is led to think he had a real admiration for him, and great sympathy for his misfortunes, even when, with professed pity, he assails Clark with an old slander that was hatched by Wilkinson and other enemies over twenty years before. In his plan of attack upon the reputation of the disabled old soldier Marshall approaches his subject by stealth. He carefully avoids any mention of Clark's well known leadership and services in 1776, when he called the first general meeting of the settlers and defeated the Henderson Company claim to Kentucky; or his election as one of their first two delegates to the Virginia Assembly; or his services in securing Virginia's recognition of the people there as her citizens; or his obtaining from the Executive Council the 500 pounds of powder which saved them; or his being in chief command in Kentucky, as major, during the desperate defensive war in 1777. All these services were well known to the Kentucky people, and to none better than to Marshall. They made the very fundamentals of the state's early history; but they were all highly creditable to General Clark, and Marshall does not mention one of them. The significance of these studied *omissions* will be fully appreciated only after reading Marshall's later assertions.

Having first introduced Clark briefly to his readers, as a mere wandering visitor in 1776, he does not again mention him until he refers to his secret expedition two years later to reduce the British posts north of the Ohio. One would hardly expect that even an enemy would wish to rob Clark of credit for originating that daring enterprise, or would question his patriotic motive in doing so. Marshall does both. He gives his readers to understand that the feasibility of such an enterprise was familiar to the Virginia government before Clark proposed it, and that his motive in proposing it was a petty, selfish one. His history says:

"In the year 1777, the idea *became familiar* to those who held the government, that the greater number of these inimical posts might be taken by a few state regiments—and that in addition to the brilliancy, and renown of the enter-

prise, it would be securing to Virginia the effect of her charter, within the limits of which, these posts principally lay.

"The possibility of making conquests so important to the future security of the western boundary of the state, derived considerable probability, and vivacity, from the ardent and confident representations of the *Mr. Clark*, whose name has been previously mentioned, as being in Kentucky the preceding year. While there, it appeared that he, affected by the scene of hostility in which he found himself; and hence induced to reflect on its causes, and the means of removing the effects; had instituted inquiries into the situation and condition of the Indians, and the posts, most contiguous to Kentucky—about which he had received extensive information; and which he, prompted by an ardent passion for military fame, *propagated with the zeal of one who had a presentiment of being employed. It was certainly his desire.* And no less certain that his information and representations *contributed* much to excite and confirm the *public sentiment*, in favour of an enterprise *which was probably suggested by him*, but thought both hazardous and eventful, by those who could alone authorize its execution."²

That this whole unsupported statement was false, appears clearly in the contemporary records. Its hostile *animus* is too plain to require comment.

Clark's admirable military conduct during the Revolution was known by everyone in Kentucky, and could not be disputed. It is praised so highly by Marshall that an unwary reader, unaware of his enmity, is led to think him a most friendly admirer of Clark; but the historic assassin's knife was only hidden. It has already been seen that, three years after the Revolution, General Clark reluctantly led a force of conscripted and disgruntled men against the confederacy of Indians on the Wabash, and that when within two days' march of the enemy about half the troops mutinied and returned straggling home. Their disgraceful conduct and Clark's brilliant success in turning their retreat to account and bringing the Indians to sue for peace has been explained fully elsewhere.³ Suffice it here to say that some of the mutineers, seeking to escape condemnation for their conduct, falsely attributed the mutiny to Clark's being intoxicated—a slander which Wilkinson perhaps suggested and certainly circu-

² Marshall's *Kentucky*, I:66. Author's italics.

³ Author's *George Rogers Clark* (Houghton Mifflin Company).

lated immediately after the return of the mutineers, when he was concocting his plot to overthrow Clark and succeed him as Indian commissioner for Congress.

This exploded slander Marshall, with pretended reluctance and great pity for General Clark, repeats, saying:

"Thus terminated an expedition of much promise, in confusion and disgrace. General Wilkinson, who was at the falls of Ohio, wrote to a friend in Fayette—"that the sun of General Clark's military glory had set, never more to rise." There was much meaning in this sentence, which those who had fathomed Wilkinson knew how to interpret and appreciate.

"Rumours were indeed unfavourable to the reputation of General Clark. But those rumours had been set afloat, by his enemies, who wanted an apology for their own conduct; and who in turn were accused of fomenting the insubordination and mutiny, of which they availed themselves to terminate the campaign dishonourably.

"Candour, however, extorts a confession, that is made with regret, that General Clark, at this time, 'was not the man he had been.' . . . He was accused, with too much truth for his fame, with frequent intoxication; even in his camp. For however the practice may shelter its enormities under the garb of liberality, or the embellishment of sociability; it becomes, in the man intrusted with command, a vice of the most pernicious, and reprehensible, character."⁴

Thus, for the first time, this miserable slander was implanted by Marshall in printed history. There, like a poisonous weed, it has been nurtured by his partisan kinsmen, ignorantly reproduced by others, and has thriven and spread until it is now almost impossible to eradicate it.

His next reference to Clark concerns his part in the movement, seven years later, to oust the Spanish rulers from Louisiana. He says: "George Rogers Clark, once an officer of distinguished services and merit, had been induced to accept the command of this clandestine force," and after setting forth his call for volunteers, adds:

"Thus were the Kentuckians invited to become invaders, freebooters, and lawless marauders on their peaceful neighbours—under a foreign standard—at which, their governor

⁴ Marshall's *Kentucky*, I:249-50.

[Shelby] looked and smiled—while Judge Innis, an organ of the government thus insulted, was privy—and connived!!!”⁵

Remembering the tremendous national importance of Clark’s acknowledged services and sacrifices in the winning of American independence and upbuilding the territorial greatness of the United States, it may be safely asserted that the general failure of historians to make any real investigation of the contemporary records to learn and present the truth about him, instead of accepting at face value and repeating what his enemies said of him, is one of the greatest shortcomings of published American history.

⁵ Marshall’s *Kentucky*, II:103-04.

APPENDIX B

SIX NATION DEED FOR TRADERS

(From exemplified copy in Virginia State Library)

TO ALL PEOPLE to whom these presents shall come Greeting
KNOW YE that we Abraham a Mohawk Chief, Sennghois a Oneida
Chief, Saquarisera a Tuscarora Chief of the Onondaga Council,
Tagaaia a Cayuga Chief & Gaustarax a Seneca Chief, Chiefs and
Sachems of the six united nations and being and effectually repre-
senting all the tribes of the said Six United Nations send Greeting
Whereas Robert Callender, David Franks, Joseph Simons, Levy
Andrew Levy; Philip Boyle, John Baynton (Samuel Wharton,
George Morgan, Joseph Spear, Thomas Smallman),¹ Samuel
Wharton Administrator of John Welch deceased, Edmund Moran,
Evan Shelby, Samuel Postlethwaite, John Gibson, Richard Win-
ston, Dennis Crohon, William Thompson, Abraham Mitchel,
James Dundas, Thomas Dundas and John Ormsby in and by their
several and respective Letters or Powers of Attorney duly signed,
sealed and delivered by them and now produced interpreted and
explained to us Have Constituted Nominated and Appointed
William Trent of the County of Cumberland and Province of
Pennsylvania Merchant their Lawfull Attorney and Agent to ask
solicit demand and receive from the Sachems Councillors and
Warriors of the said Six United Nations a Grant of a Tract of
Land as a Compensation Satisfaction or Retribution for the
Goods Merchandise and Effects of the said William Trent and the
Traders aforesaid which the Shawnesse Delaware and Huron
tribes Tributaries of the Said Six Nations [Contrary to all Good
faith and in Violation of their repeated promises of Safety and
protection to their persons Servants and Effects whilst trading

¹ These four names are interlined
in the manuscript, with no mark to
indicate their order in the list.

in their Country] did in the Spring of the Year One thousand seven hundred and sixty three Violently seize upon and unjustly appropriate to their own use AND WHEREAS we are now convened in full council by order of our Father the King of Great Britain France and Ireland Defender of the Faith &c at Fort Stanwix in the province of New York in order to agree for ascertain and finally fix and settle a permanent and lasting boundary line between the hunting Country which we at the Conference aforesaid shall and will reserve for ourselves our Children and our tributaries and the Territories of the said King of Great Britain AND WHEREAS application was formerly made to the said Six United Nations by Sir William Johnson Baronet at the requisition of the aforesaid Traders who had sustained and suffered the losses aforesaid for a retribution for the same which the said Six United Nations promised and agreed to whenever He the said Sir W[illiam] Johnson Baronet should be empowered by his said Majesty the King [to estab²]lish the boundary line aforesaid, AND WHEREAS the said Sir [William Johnson Baro]net² has now at this present Congress reminded the Said Six United [Nations of their]² promise and at the earnest desire of the aforesaid Traders by their Said Att[orney str²]ongly recommended to the Said Six united Nations to make them a Restitution by a Grant of a Tract of Land to his said Majesty the King of Great Britain his heirs and Successors To and for the only use benefit and behoof of the Said William Trent in his Own right and as Attorney as aforesaid ALL WHICH the said Six United Nations having taken into their Consideration and being heartily disposed to agree thereto as an instance of their Justice and Concern for the Said Losses DO THEREFORE by these presents Signify publish and declare THAT notwithstanding the Grant and Gift hereby made and Given by them unto his said Majesty the King of Great Britain and so forth To and for the only use benefit and behoof of the said William Trent in his own right and as attorney aforesaid Will be included within the Cession Sale and Boundary Line which the said Six United Nations shall and will make Sell and grant to the Said King of Great Britain at the Conference aforesaid now holden at Fort Stanwix aforesaid by the Said Sir William Johnson Baronet Yet

² MS. illegible.

Nevertheless the said Six United Nations have neither asked demanded nor received from him the Said Sir William Johnson Baronet nor from any other Person or Persons in behalf of the said King of Great Britain any Consideration for the hereby given and granted premises neither shall nor will the said Six United Nations nor their heirs nor descendants [and by these presents they the said Six United Nations wholly and intirely interdict and prohibit them from so doing] demand nor receive from the said King of Great Britain nor from his Successors nor from his or their Ministers or Servants any Consideration whatsoever or howsoever for the hereby granted bargained or now given premises or any part purpart or parcel thereof the same being their own voluntary Act and Deed solely and Bona fide designed and intended by them as a Compensation Satisfaction and Retribution for the losses sustained by the said William Trent and the Indian Traders aforesaid by the depredations of the Shawnesse Delaware and Huron Tribes of Indians aforesaid in the aforesaid war One thousand seven hundred and Sixty three NOW THIS INDENTURE WITNESSETH that we the said Abraham, Sennghois, Saquaresera, Chenaugheata, Tagaia, and Gaustarax [Chiefs and Sachems of the said Six United Nations and being and effectually as aforesaid representing all the Tribes of the said six united Nations] for and in consideration of the sum of Eighty five thousand Nine hundred and Sixteen pounds Ten shillings and eight pence lawful money of the Province of New York [The same being the amount of the Goods and Merchandize which were unjustly taken and seized as aforesaid by the Shawnesse Delaware and Huron Tribes of Indians³ from the said William Trent, Robert Callender, David Franks, Joseph Simons, Levy Andrew Levy, Philip Boyle, John Baynton, Samuel Wharton, George Morgan, Joseph Spear, Thomas Smallman, Samuel Wharton, Administrator of John Welch deceased, Edmund Moran, Evan Shelby, Samuel Postlethwaite, John Gibson, Richard Winston, Dennis Crohon, William Thompson, Abraham Mitchel, James Dundas, Thomas Dundas and John Orm[sby in] the aforesaid Year One thousand seven hundred and sixty three [MS. illegible] Amounts have on Oath and Affirmation being produ[ced MS. illegible] Explained to us

³ The phrase "by the Shawnesse dians" was interlined after the deed Delaware and Huron Tribes of In- was written at this point.

and which at our desire are now lodged and [MS. illegible] with the Said Sir William Johnson Baronet] and for and in Consideration of the sum of five shillings lawful money aforesaid to Us in hand paid by the said William Trent the receipt whereof We do hereby Acknowledge DO Give Grant Bargain and Sell unto his said Majesty his heirs and Successors to and for the only use benefit and behoof of the Said William Trent in his own right and as attorney aforesaid ALL THAT Tract or Parcel of Land Beginning at the Southerly Side of the mouth of little Kanhawa Creek where it Empties it self into the River Ohio and Running from thence South East to the Lawrel Hill thence along the Lawrel hill untill it strikes the River Monongehela thence down the Stream of the said river Monongehela according to the several Courses thereof to the Southern Boundary Line of the Province of Pennsylvania thence Westerly along the Course of the said Province Boundary line as far as the same shall extend and from thence by the same Course to the River Ohio thence down the said River Ohio according to the several Courses thereof to the place of Beginning, TOGETHER with all and singular the Trees, Woods Under Woods Mines Minerals Oars Waters Water Courses fishings fowlings Huntings profits Commodities Advantages rights Liberties, priviledges hereditaments and appurtenances whatsoever to the Said Tract or Parcell of Land belonging or in anywise appertaining or which now are or formerly have been accepted reputed and taken known used occupied or enjoyed to or with the same or as part parcell or member thereof and the Reversion and reversions remainder and remainders rents issues and profits of all and singular the said premises above mentioned and every part and parcell thereof with the appurtenances and also all the Estate Right title Interest property Claim and Demand whatsoever whether Native Legal or Equitable of us the said Indians and each and every of us and of all and every other person and persons whatsoever of or belonging to the said Nations of into and out of all and singular the premises above mentioned and and of into and out of every part and parcell thereof with the appurtenances TO HAVE AND TO HOLD all and Singular the said Tract Parcel and Parcells of Land given granted and bargained premises with their appurtenances unto his said Majesty King George the third his heirs and Successors But to and for the only Use Benefit and Behoof of the said William Trent in his own

right and as Attorney aforesaid his heirs and [MS. illegible] forever AND the Said Abraham, Sennghois, Saquarisera, Chenaugheata, Tagaia, and Gaustarax for themselves and for the said Six United Nations and all and every other Nation and Nations Tribes Tributaries and Dependants on the said Six United Nations and their and every of their Posterity's The said Tract and Parcell of Land and premises and every part thereof against them the said Abraham, Sennghois, Saquarisera, Chenaugheata, Tagaia and Gaustarax and against the Said Six United Nations and their Tributaries and Dependants and all and Every of their Posterity to his Said Majesty his heirs and Successors, but to and for the only use benefit and behoof of the Said William Trent in his own right and as Attorney aforesaid his heirs and Assigns Shall and will Warrant and forever defend by these presents IN WITNESS whereof we the said Chief and Sachems in behalf of our selves respectively and in Behalf of the Whole Six United Nations aforesaid have hereunto Set our hands and seals in the presence of the Persons Subscribing as Witnesses hereunto at a Congress held at Fort Stanwix aforesaid this the third day of November in the Ninth Year of his Majesty's Reign and in the year of our Lord One thousand Seven hundred and sixty eight.

The mark of his Nation

Abraham Tyahanesera Chief of—



} [SEAL] the Mohocks

The Steel

The mark of his Nation

William or Sennghois Chief of—



} [SEAL] the Oneidas

The Stone

The mark of his Nation

Hendrick or Saquarisera Chief of—



} [SEAL] the Tuscaroras

The Cross

The mark of his Nation

Bunt or Chenaugheata Chief of—




} [SEAL] the Onondagas

The Mountain

Tagaia a Chief of—

The mark of his Nation

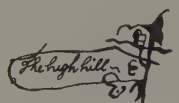


The Pipe

[SEAL] the Cayugas

Gaustrax a Chief of—

The mark of his Nation



[SEAL] the Senecas

SEALED and delivered in the presence of us, [the Letters *d w* and the words *to said* being first interlined, the words Sennghois, Saquarisera Chenaugheata wrote on a rasure], W^m. Franklin Governor of New Jersey, T[hos] Smyth, Chief Justice of New Jersey, Thomas Walker, Commissioner for Virginia, Rich [MS. illegible] James Tilghman, of the Council of Pennsylvania, John Skinner Capⁿ. in the 70th. Reg^t., Joseph Chew of Connecticut, John Weatherhead of New York, John Walker of Virginia E Fitch of Connecticut Thomas Walker, Junⁿ. of Virginia, John Butler, Interpreter for the Crown —————

————— ON the seventh day of January in the Year of our Lord One thousand seven hundred and sixty nine BEFORE me Isaac Jones Esquire Mayor of the City of Philadelphia Came the Reverend Richard Peters Rector of the two United Churches of Christ Church and Saint Peters in Philadelphia one of the Subscribing Witnesses to the within written Deed and made Oath on the Holy Evangelist of Almighty God that he was present and did see the within named Abraham or Tyahanesera, a Chief of the Mohocks, William or Sennghois, a Chief of the Oneidas, Hendrick or Saquarisera a Chief of the Tuscoraras, Bunt or Chenaugheata a Chief of the Onondagas, Tagaia a Chief of the Cayugas, and Gaustrax a Chief of the Senecas make the Several Marks in the within written Deed against their Respective names placed as the particular mark of Each Nation and did also see the said Abraham or Tyahanesera, William or Sennghois, Hendrick or Saquarisera, Bunt or Chenaugheata, Tagaia and Gaustrax respectively Seal and as their act and deed deliver in behalf of themselves and the several Nations which they Effectually represented the within written Deed Poll And that the name Richard Peters Subscribed thereto as a Witness of the Same is of his Own hand Writing And also that he the said Richard Peters Saw W^m.

Franklin Governor of New Jersey, Fred Smyth Chief Justice of New Jersey, Thomas Walker, Commissioner for Virginia, James Tilghman of the Council of Pennsylvania, John Skinner Cap: in the 70th. Reg^t., Joseph Chew of Connecticut, John Walker of Virginia, E Fitch of Connecticut, Thomas Walker Jun^r. Virginia, John Butler Interpreter for the Crown Subscribe their Names as Witnesses likewise to the Signing Sealing and delivery of the Within written deed Poll. Witness my hand and seal the day and year aforesaid I S Jones L. S.

RECORDED 12th JANUARY 1769 ———

WILLIAM PARR ESQUIRE, Master of the Rolls of and for the Province of Pennsylvania do hereby Certify that the foregoing Writing Contained on five pages of these Two Sheets of Paper annexed together Purporting to be a Deed from the Six Nations of Indians to the King of Great Britain in trust for William Trent and others is a True Copy or Exemplification of the Inrollment of the same as the same is Recorded in Book I Volume 5 Page 243 &c^a.

IN TESTIMONY whereof I have hereunto Set my hand and caused the Seal of Office aforesaid to be hereunto affixed at Philadelphia this Second day of October Anno Domini 1776.

Will. Parr Mas^r of the Rolls.

APPENDIX C

SIR WILLIAM JOHNSON'S REPORT ON SIX NATION DEEDS

On its face the Six Nation deed to "Indiana" in trust for the traders was quite irregular. Even if the King should decline the trust, a court of equity could appoint another trustee in his stead; for it is a maxim of equity that "no trust will be allowed to fail for want of a trustee." But Wharton and Sir William were better advised than to rely on that deed alone, for should the company sue to eject some settler on land in "Indiana," he might deny that the King knew anything about the deed. It was well, therefore, to have written evidence showing that the King did know all about it. It was accordingly planned to make up written evidence to prove this; and it was done most cunningly.

Sir William's full knowledge of the contents and execution of the traders' deed (before he accepted for the King the second deed to the larger boundary grant embracing "Indiana") was made to appear in his official report of the treaty meeting to the King. If then the King could be tempted to accept the larger boundary grant, the traders could well claim he was estopped to deny that under the deed he took "Indiana" charged with the trust for the traders.

This knowledge on Sir William's part was made to appear very fully in the minutes of the proceedings of the open treaty meeting as he sent it to the King's minister.¹ They were elaborately and carefully made up to evidence the legality of the deed to the traders and were, designedly, very involved in style. The speeches of the Indian chiefs, as set forth, expressly notify Sir William (and through him, of course, the King) of their grants to the traders and Croghan, and request that those grants be recognized and confirmed by the King. The chiefs state more. They expressly state that their larger boundary grant to the King

¹ *New York Colonial Documents*,
VIII:110-37.

was made by them in "expectation" and on "*condition*" that he would do this!

They are reported as saying that their new boundary grant to the King is "*subject to several conditions* for the security of their possessions and *engagements entered into* [with Croghan and the traders] . . . on which we have spoken." They say in making

"so large a cession to the King of such valuable and extensive country, *we do expect it, as the terms of our agreement, that strict regard be paid to all our reasonable desires. . . . We make it a condition of this, our agreement concerning the [boundary] line, . . . that all grants or engagements [we] have now or lately entered into shall be considered as independent of this boundary. . . . We expect the traders, who suffered by some of our dependents five years ago, may have a grant for the lands we now give them down the Ohio, as a satisfaction for their losses.*"²

To this Indian speech Sir William responded: "I consider your good intentions towards the traders who sustained the losses and your desire to fulfill all your engagements, as instances of your integrity." Certainly the treaty proceedings, as Sir William reported them, show that the speeches of the chiefs gave him ample notice of their grant to the traders and, through him, informed the King that the larger boundary grant to his Majesty was conditioned on his confirming the traders' grant.

Not content, however, with this,

"Sir William Johnson and the commissioners recommended that the chiefs of the Six Nations, who had signed it, should carry it into the Congress and publicly acknowledge the execution of it, at the same time they executed the grant to the King of England and the proprietors of Pennsylvania, which was accordingly done."³

The minutes of November 5th, the last day of the treaty meeting, state:

"The deed to his Majesty, one to the proprietors of Pennsylvania, and the one to the traders, being then laid on the table, *were executed in the presence of the Governor of New Jersey, the Commissioners of Virginia and Pennsylvania and the rest of the gentlemen present.*"

² Id. Author's italics.

³ Id.

Although his name is not mentioned, Sir William was one of the "gentlemen present," for the minutes open with the statement: "Present as at the last meeting" (when the minutes showed he was present.) Thus Sir William's presence at the re-execution of the traders' deed, although veiled, was made certain. It was not desirable to call attention of the ministers to his knowledge of it. The King's agent was thus a witness to the formal re-execution of the traders' deed.

The promoters adopted still other means of giving to the King legal notice of the grant to them and also notice to anyone who might in future claim any of the "Indiana" lands under him. They inserted reference to it, and to the Indian speeches, in the deed to the King.

Read between the lines, this deed to the King is in deceptive phraseology a work of art. It does not fail to state all that is really necessary to require the King, or any purchaser from him, to take notice of the prior deed to the traders. Yet the language is made so prolix, involved and *Indian-like* as to be very misleading. Only a lawyer or a keen-minded layman, suspecting the draftsman's object, would see how free from deception it must have appeared to any London official not a lawyer.

It makes the Indians recite that the great region to the Tennessee "is ceded by us to his majesty *from the expectation and confidence that he will graciously comply with our humble requests, as the same are expressed in the speech of the several nations addressed to his majesty through Sir William Johnson . . . wherein we have declared our expectation . . . that . . . our present grants [to Croghan and the traders] shall be deemed valid on our parts;*" and the deed concludes with a clause providing that the lands granted the King shall be held by him "*under the reservations made in the treaty*"—that is reservations of the grants to Croghan and the traders.

Knowing as much as we now know of the cunning scheme of the conveyancer, it is evident that he hoped the Ministers of the King would not discover the significance of these involved statements in the boundary deed (about the Indian "speech," "expectation," "present grants," etc.) or suspect that they were designed to secure the King's unconscious ratification of the deeds to the traders and Croghan. Nor was it intended that the King, or his Ministers, should ever see a report of the *private* transactions

with the Indians; for, in connection with the deeds, they would have made the whole scheme of imposition plain.

Accordingly, Sir William in his report to Lord Hillsborough simply said: "The Minutes of the private conferences with the chiefs, where the principal matters are first resolved on, were much too voluminous to be ever transmitted."⁴ His report continues:

"the Indians insisted in Such Warm Terms on the justice of their claim to the Cherokee River that I was necessitated either to disoblige them in a high degree, or to observe to them that the Southern Indians made some pretensions to the Lands in Question. Besides this and the designs of the frontier people with the Virginia Claim before mentioned, I did humbly conceive it to be the desire of Government to get as extensive a Cession as was practicable; and altho, in the Letters I had the honor to receive, mention was made of the Kenawa River, to prevent a dispute with the Cherokees &c, Yet as I had always understood & had myself actually heard the Cherokees above 20 years ago acknowledge that the river of their name was the extent of their pretentions, and as I found it was so understood by the colony of Virginia, and as the Northern Indians would not be Satisfied till this their claim was mentioned, I acted to the best of my judgment . . . in accepting of the Cession."

The whole history of the Cherokee and Virginia dealings with one another and with these lands exposes the untruth of these statements.

Lord Hillsborough, however, was not deceived. He doubtless submitted Sir William's letter, enclosing the doctored "minutes" of the treaty proceedings, to his legal adviser, who read them between the lines and scented the fraud. The result was a report of the Board of Trade to the King severely condemning Sir William's usurpation of authority to treat for a boundary line south of the Ohio as being out of his jurisdiction and plainly conflicting both with the instructions given him and with Stuart's boundary line treaty with the Cherokees.

The Board's report⁵ said:

"It appears from the deed executed at Fort Stanwix . . . in the presence of Sir William Johnson . . . that the

⁴ Id., 941.

⁵ Id., 158.

Indians, . . . in consideration that your Majesty will comply with certain conditions expressed in their speeches made at the conference, . . . have ceded [all the country between the Ohio and Tennessee Rivers.]

“With regard to those conditions, upon which the cession is made, and for which the deed refers to the speeches . . . we find . . . the following objects:

1. A declaration of the right of the Six Nations and their confederates, in contra-distinction to the claims of any other Indians in the country south of the Ohio, as far as the . . . Cherokee River!

2. An expectation on their part . . . that certain grants made by the Indians to Mr. Croghan, a deputy of Sir William Johnson, and certain Indian traders, in compensation for losses sustained by them in 1763, shall be confirmed by your Majesty.”

The Board of Trade’s report then shows that Sir William could readily have confined his treaty, according to precise instructions previously given him, to a boundary line in his own jurisdiction north of the Ohio (to operate as an extension of the line Stuart had agreed on with the Cherokees from that river southwardly) but that he had “improperly and unnecessarily” suggested to the Six Nation Indians to extend their claim south of the Ohio; that Stuart’s boundary line with the Cherokees, extending southwardly from the Ohio at the mouth of the Kanawha, had been “settled;” that the lands west of it were “reserved to them;” that it was the “boundary between your Majesties Southern Colonies and the Indians;” that if that boundary, back of Virginia, were to be moved further westward by treaty with the Cherokees, the cost of the treaty should be borne by Virginia. Regarding the deeds to Croghan and the traders (the fact that the deeds were made *to the King in trust for them* was evidently not known to the Board) the report said:

“the claims and interests of private persons, not stated to, or approved by your Majesty, have been allowed to mix themselves in this negotiation, and to be introduced,—not as propositions submitted to Your Majesty’s determination, but as Rights derived from the Indians, your Majesty’s acquiescence in which is demanded by them, as a condition of the Treaty.

“. . . Neither the foundation, nor extent, of the claims of these persons have, at any time, been represented to your Majesty; nor are we enabled, either by a communication of

the Deeds themselves executed by the Indians, or by any other information, to state to your Majesty the situation or quantity of the land in question."

As those lands contained some twenty million acres of land, then esteemed the most valuable west of the Alleghenies (considerable parts claimed and many parts actually occupied by the Virginians) the audacity of the whole scheme becomes plain.

APPENDIX D

EARLY KENTUCKY PETITION FOR SEPARATION

"To the honorable the Convention of Virginia—The petition of the inhabitants, and some of the intended settlers, of that part of North America now denominated Transylvania, humbly sheweth,

"Whereas some of your petitioners became adventurers in that country from the advantageous reports of their friends who first explored it, and others since allured by the specious show of the easy terms on which the land was to be purchased from those who style themselves to be proprietors, have, at a great expense and many hardships, settled there, under the faith of holding the lands by an indefeasible title, which those gentlemen assured them they were capable of making. But your petitioners have been greatly alarmed at the late conduct of those gentlemen, in advancing the price of the purchase money from twenty shillings to fifty shillings sterling per hundred acres, and at the same time have increased the fees of entry and surveying to a most exorbitant rate; and, by the short period prefixed for taking up the lands, even on those extravagant terms, they plainly evince their intentions of rising in their demands as the settlers increase, or their insatiable avarice shall dictate.

"And your petitioners have been more justly alarmed at such unaccountable and arbitrary proceedings, as they have lately learned, from a copy of the deed made by the Six Nations with Sir William Johnson, and the commissioners from this Colony, at Fort Stanwix, in the year 1768, that the said lands were included in the cession grant of all that tract which lies on the south side of the river Ohio, beginning at the mouth of Cherokee or Hogohege River, and extending up the said river to Kettaning. And, as in the preamble of said deed, the said confederate Indians declare the Cherokee River to be their true boundary with the southern Indians, your petitioners may, with great reason, doubt the validity of the purchase that those proprietors have made of the Cherokees—the only title they set up to the lands for which they demand such extravagant sums from your petitioners,

without any other assurance for holding them than their own deed and warrantee; a poor security, as your petitioners humbly apprehend, for the money that, among other new and unreasonable regulations, these proprietors insist should be paid down on the delivery of the deed.

“And, as we have the greatest reason to presume that his majesty, to whom the lands were deeded by the Six Nations for a valuable consideration, will vindicate his title, and think himself at liberty to grant them to such persons, and on such terms as he pleases, your petitioners would in consequence thereof, be turned out of possession, or be obliged to purchase their lands and improvements on such terms as the new grantee or proprietor might think fit to impose; so that we cannot help regarding the demand of Mr. Henderson and his company as highly unjust and impolitic, in the infant state of the settlement, as well as greatly injurious to your petitioners, who would cheerfully have paid the consideration at first stipulated by the company, whenever their grant had been confirmed by the crown, or otherwise authenticated by the supreme legislature.

“And, as we are anxious to concur in every respect with our brethren of the united Colonies, for our just rights and privileges, as far as our infant settlement and remote situation will admit of, we humbly expect and implore to be taken under the protection of the honorable Convention of the Colony of Virginia, of which we cannot help thinking ourselves still a part, and request your kind interposition in our behalf, that we may not suffer under the rigorous demands and impositions of the gentlemen styling themselves proprietors, who, the better to effect their oppressive designs, have given them the color of a law, enacted by a score of men, artfully picked from the few adventurers who went to see the country last summer, overawed by the presence of Mr. Henderson.

“And that you would take such measures as your honors in your wisdom shall judge most expedient for restoring peace and harmony to our divided settlement; or, if your honors apprehend that our case comes more properly before the honorable the General Congress, that you would in your goodness recommend the same to your worthy delegates, to espouse it as the cause of the Colony. And your petitioners, &c.”³

APPENDIX E

GEORGE ROGERS CLARK TO PATRICK HENRY IN 1777

Outlining the Plan of His Expedition into the Illinois Country.

“Sir—

“According to promise I haste to give you a description of the town of Kuskuskies, and my plan for taking of it. It is situated 30 leagues above the mouth of the Ohio, on a river of its own name, five miles from its mouth and two miles east of the Mississippi. On the west side of the Mississippi 3 miles from Kuskuskies is the village of Mozier [St. Genevieve] belonging to the Spaniards. The town of Kuskuskies contains about one hundred families of French and English and carry on an extensive trade with the Indians; and they have a considerable number of negroes that bear arms and are chiefly employed in managing their farms that lay around the town, and send a considerable quantity of flour and other commodities to New Orleans, [which they barter every year and get the return in goods up the Mississippi¹] The houses are framed and very good, with a small but elegant stone fort situated [but a little distance from] the centre of the town. The Mississippi is undermining a part of Fort Chartress; the garrison was removed to this place, which greatly added to its wealth; but on the commencement of the present war, the troops [were] called off to re-inforce Detroit, which is about three hundred miles from it—leaving the fort and all its stores in care of one Roseblack as comd^t of the place, with instructions to influence as many Indians as possible to invade the Colonies; and to supply Detroit with provisions, a considerable quantity of which goes by the way of the Waubash R., and have but a short land carriage to the waters of ye [Miami.]

“In June last I sent two young men there: They [Roche-

¹ Draper marks this “erased.”

blave and the French] seemed to be under no apprehension of danger from the [Americans]. The fort which stands a small distance below the town is built of stockading about ten feet high, with blockhouses at each corner, with several pieces of cannon mounted—[10,000 lbs²] powder, ball and all other necessary stores without [any] guard or a single soldier. Roseblack who acted as Governor, by large presents engaged the Waubash Indians to invade the frontiers of Kentucky; was daily treating with other Nations, giving large presents and offering them great rewards for scalps. The principal inhabitants are entirely against the American cause, and look on us as notorious rebels that ought to be subdued at any rate; but I dont doubt but after being acquainted with the cause they would become good friends to it. The remote situation of this town on the back of several of the Western Nations; their being well supplied with goods on the Mississippi, enables them [to carry³] to furnish the different Nations [with goods⁴], and by presents will keep up a strict friendship with the Indians; and undoubtedly will keep all the Nations that lay under their influence at war with us during the present contest, without they are induced to submission; [that being situated above the mouth of the Ohio⁵] they will be able to interrupt any communication that we should want to hold up and down the Mississippi, without a strong guard; having plenty of swivels they might, and I dont doubt but would keep armed boats for the purpose of taking our property. On the contrary, if it was in our possession it would distress the garrison at Detroit for provisions, it would fling the command of the two great rivers into our hands, which would enable us to get supplies of goods from the Spaniards, and to carry on a trade with the Indians [MS. illegible] them might perhaps with such small presents keep them our friends.

“I have always thought the town of Kuskuskies to be a place worthy of our attention, and have been at some pains to make myself acquainted with its force, situation and strength. I cant suppose that they could at [any] time raise more than six [or seven] hundred armed men, the chief of them [are French the

² Erased.

³ Erased.

⁴ Erased.

⁵ Erased.

British at Detroit being at so great a] distance, so that they [blank in MS.] more than [blank in MS.]

“An expedition against [Kaskaskias would be advantageous] seeing one would be attended with so little expense. The men might be easily raised [blank in MS.] with little inconvenience Boats and canoes with about forty days provisions would [answer] them: they might in a few days run down the river with certainty [to the] Waubash, when they would only have about five to march to the town with very little danger of being discovered until almost within sight, where they might go in the night; if they got wind [of us they might] make no resistance: if [they did] and were [not] able to beat us in the field, they could by no means defend themselves for if they flew to the fort, they would loose possession of the town, where their provisions lay, and would sooner surrender than to try to beat us out of it with the cannon from the post, as [they] would be sensible that should [we fire] it before we left it, which would reduce them to the certainty of leaving the country or starving with their families, as they could get nothing to eat.

“Was I to undertake an expedition of this sort, and had authority from Government to raise my own men, and fit myself out without [much delay] I should make no doubt of being in [full possession of the country] by April next.

“I am sensible that the case stands thus—that [we must] either take the town of Kuskuskies, or in less than a twelve month send an army against the Indians on Wabash, which will cost ten times as much, and not be of half the service.”⁶

⁶ *Draper MSS.*, 48 J 13; *Illinois Historical Collections*, VIII:30-2.

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